

President and the candidates are participating in the political process. But we do have business here in the Senate. To try to dictate the schedule entirely around their candidacy for President is just impractical. I cannot do that. I want to be respectful as much as possible as we go forward. It is difficult. I want to be as accommodating as we possibly can in terms of votes, allowing people to participate.

On the other hand, we need to keep business going. We have made great progress in terms of the amendments on our side and on the other side, getting them down to a manageable number. Some might question "a manageable number," but to a number that we can work with. I appreciate that. That is what it is going to take in order to bring real focus to this bill.

In terms of agreeing to when we will vote on, indeed, a very complicated and complex issue at a specific time, at a day that is most convenient because of political candidates running around the country, especially since that amendment has not even yet been offered, is something we can't do at this time. That was explained to the other side of the aisle. That should not slow things down at all. But again, there is an orderly process. When the amendment is provided and debated, we have a lot of people who will want to speak on that. Again, the issue is a very important one.

We are making real progress. I am pleased where we are in terms of having this manageable group of amendments. Systematically, we will be going through those over the course of the day and Monday and Tuesday. Hopefully, we will complete the bill.

Mr. REID. If I may briefly reply, we shared the amendment Senator HARKIN is going to offer with Senator SPECTER and Republican staff. The question is when he should offer it. He could have offered it last night. He will offer it today. Everyone has had the opportunity to see the amendment.

We are respectful of the majority leader's problems in trying to set schedules. That is why, when we have had very close votes, we have not asked for revotes when our people come back. It is not often we have asked to have a vote at a certain time, but we have telegraphed, so to speak, our punch and let everyone know we were trying to get something lined up for Tuesday. I hope we can do that. With the number of amendments we have, as the leader knows, we can finish the bill very quickly or it can take a long time. We hope on Tuesday we can have that vote to work toward ending debate on this very important bill.

#### RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the 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.

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.

Kohl amendment No. 1558 (to amendment No. 1542), to provide additional funding for the ombudsman program for the protection of vulnerable older Americans.

Kennedy amendment No. 1566 (to amendment No. 1542), to increase student financial aid by an amount that matches the increase in low- and middle-income family college costs.

Dodd amendment No. 1572 (to amendment No. 1542), to provide additional funding for grants to States under part B of the Individuals with Disabilities Education Act.

Harkin amendment No. 1575 (to amendment No. 1542), to provide additional funding for the Fund for the Improvement of Education.

DeWine amendment No. 1561 (to amendment No. 1542), to provide funds to support graduate medical education programs in children's hospitals.

DeWine amendment No. 1560 (to amendment No. 1542), to provide funds to support poison control centers.

DeWine amendment No. 1578 (to amendment No. 1542), to provide funding for the Underground Railroad Education and Cultural Program.

Clinton amendment No. 1565 (to amendment No. 1542), to provide additional funding to ensure an adequate bioterrorism preparedness workforce.

The PRESIDENT pro tempore. Under the previous order, until the hour of 9:30 a.m., the time will be equally divided between the two bill managers or their designees.

In my capacity as a Senator from Alaska, I suggest the absence of a quorum and ask the clerk to call the roll. The time will be charged against both sides.

Without objection, it is so ordered.

The legislative clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, I understand the first vote this morning will be on the Harkin amendment; is that true?

The PRESIDENT pro tempore. The first vote will be on the Clinton amendment, No. 1565, to be followed by the amendment of the Senator from Iowa, No. 1575.

AMENDMENT NO. 1575

Mr. HARKIN. Mr. President, I want to speak a couple minutes on my amendment. The amendment we will be voting on has to do with school construction. Actually 3 years ago, this Congress appropriated almost \$1 billion for school construction around the United States. This money has gone out to States all over the country. Some of it has been used and some of it still is going out for construction and renovation purposes. But what it has done is leveraged for every Federal dollar about \$15 or \$20 of local money. So we are getting a heck of a bang for the buck by putting money into school construction and renovation. That happened in Iowa, and it is happening in every other State in the country.

The American Society of Civil Engineers 3 years ago gave a report card on the infrastructure of America, and they gave the schools a D minus, the lowest grade of any category, lower than sewer and water and highways and everything else. They said schools were a D minus 3 years ago. Just yesterday they came out with their report card again and said there has been no progress at all.

The PRESIDENT pro tempore. The Senator's time has expired. The time was equally divided before 9:30. The Senator's time has expired. Under the previous agreement, the time before 9:30 was equally divided between the Senator from Iowa and the Senator from Pennsylvania.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am very sympathetic to the objectives sought by the Senator from Iowa. In the past, on budget resolutions in prior years, I have supported using Federal funds on school construction. But the difficulty this year is that there is no money available for this line. Senator HARKIN and I, on a bipartisan basis, have worked out the allocation of \$137 billion. I would like to have money for school construction, but it simply isn't there.

It was not included in the budget resolution this year. It has always been highly controversial to pass this body, and it was only Senator D'Amato and Senator CAMPBELL and I who supported it in the past, when Senator HARKIN spearheaded this effort along with Carol Moseley-Braun. This is one of the many laudable objectives I would like to see funded. I fought hard for a larger allocation from the subcommittee. I would be glad to join Senator HARKIN in supporting this measure, but as manager it is my duty to stay within the confines of the bill and within the confines of the allocation. So it is with regret that I have to raise a point of order.

Mr. President, I raise a point of order under section 504 of the concurrent resolution on the budget for fiscal year

2004 that the amendment exceeds the discretionary spending limits specified in this section and therefore is not in order.

The PRESIDENT pro tempore. Which amendment is the point of order raised against?

Mr. SPECTER. Mr. President, that was raised against the amendment to be voted on first, which has already been noted by the Chair, the amendment of Senator CLINTON.

Similarly, I raise a point of order under section 504 of the concurrent resolution for fiscal year 2004 that the amendment of Senator HARKIN exceeds the discretionary spending limits and therefore is not in order.

The PRESIDENT pro tempore. So the Senator has made a point of order under each of the amendments?

Mr. SPECTER. That is correct.

Mr. HARKIN. Mr. President, pursuant to section 504(b)(2) of House Concurrent Resolution 95, the concurrent resolution on the budget for fiscal year 2004, I move to waive section 504 of that concurrent resolution for the purpose of the pending amendment, and also for the amendment that I offered, which would be following this vote at 9:30 on the Clinton amendment.

The PRESIDENT pro tempore. Without objection, the two motions are received.

Mr. HARKIN. Mr. President, I ask for the yeas and nays on both amendments.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 1565

The PRESIDENT pro tempore. The question is on agreeing to the motion with respect to amendment No. 1565.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Tennessee (Mr. ALEXANDER), the Senator from Illinois (Mr. FITZGERALD), the Senator from Texas (Mrs. HUTCHISON), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Alabama (Mr. SHELBY) are necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX), the Senator from North Dakota (Mr. DORGAN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Georgia (Mr. MILLER), and the Senator from Florida (Mr. GRAHAM) are necessarily absent.

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

The result was announced—yeas 41, nays 47, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—41

Akaka	Biden	Byrd
Baucus	Bingaman	Cantwell
Bayh	Boxer	Clinton

Conrad	Jeffords	Nelson (FL)
Corzine	Johnson	Nelson (NE)
Daschle	Kennedy	Pryor
Dayton	Kohl	Reed
Dodd	Landrieu	Reid
Durbin	Lautenberg	Rockefeller
Feingold	Leahy	Sarbanes
Feinstein	Levin	Schumer
Harkin	Lincoln	Stabenow
Hollings	Mikulski	Wyden
Inouye	Murray	

NAYS—47

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

NOT VOTING—12

Alexander	Fitzgerald	Lieberman
Breaux	Graham (FL)	Miller
Dorgan	Hutchison	Murkowski
Edwards	Kerry	Shelby

The PRESIDENT pro tempore. On this question, the yeas are 41, the nays are 47. 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.

VOTE ON AMENDMENT NO. 1575

The PRESIDENT pro tempore. Under the previous order, we will now proceed to a vote on the point of order made against the Harkin amendment, amendment No. 1575. The yeas and nays have been ordered.

There is a previous order for 5 minutes of debate equally divided in the usual form prior to the second vote. Who yields time?

Mr. SPECTER. Mr. President, we know there are many Members anxious to depart for planes, and Senator HARKIN and I have decided to yield back our time and proceed directly to the vote.

The PRESIDENT pro tempore. Without objection, it is so ordered. All time is yielded back.

The question is on agreeing to the motion. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Tennessee (Mr. ALEXANDER), the Senator from Texas (Ms. HUTCHISON), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Alabama (Mr. SHELBY) are necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX), the Senator from North Dakota (Mr. DORGAN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

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

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

The yeas and nays resulted—yeas 43, nays 46, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—43

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

NAYS—46

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

NOT VOTING—11

Alexander	Graham (FL)	Miller
Breaux	Hutchison	Murkowski
Dorgan	Kerry	Shelby
Edwards	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 46. 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. REID. Mr. President, 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. HARKIN. Mr. President, I ask unanimous consent to set aside the pending amendments.

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

AMENDMENT NO. 1580 TO AMENDMENT NO. 1542

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. KENNEDY, Mr. DASCHLE, Ms. MIKULSKI, Mrs. CLINTON, Mr. EDWARDS, Mrs. MURRAY, Mr. CORZINE, Mr. BYRD, Mr. REID, Mr. SCHUMER, Mr. LAUTENBERG, Mr. KERRY, Mr. LIEBERMAN, Mr. FEINGOLD, Mr. SARBANES, Mr. DODD, Ms. STABENOW, Mr. LEAHY, Mr. DURBIN, Mr. AKAKA, Mr. DAYTON, Mr. PRYOR, Mr. REED, and Mr. NELSON of Florida, proposes an amendment No. 1580 to amendment No. 1542.

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

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

The amendment is as follows:

On page 23, between lines 15 and 16, insert the following:

SEC. \_\_\_\_ None of the funds provided under this Act shall be used to promulgate or implement any regulation that exempts from the requirements of section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) any employee who is not otherwise exempted pursuant to regulations under section 13 of such Act (29 U.S.C. 213) that were in effect as of September 3, 2003.

Mr. HARKIN. Mr. President, this is an amendment about which I spoke at some length yesterday and the day before on the floor. Others spoke on it also. This is the amendment that would preclude the administration from issuing final proposed regulations that would take away the right of up to 8 million to 10 million Americans to get overtime pay if they work over 40 hours a week.

Just to recap for a minute, earlier this year, sort of under the cover of darkness, without one hearing, the Department of Labor issued proposed regulations to modify the Fair Labor Standards Act that would basically modify, in a very drastic manner, how employers would decide who was covered under overtime law and who was not.

Now, again, this has been in existence since 1938. We have had some changes in it since that time, but none as sweeping as the Administration has proposed this spring and that would result in millions of working Americans losing their overtime pay protection.

The Department of Labor has said this only affects about 644,000 workers. Well, they're only counting the people are currently, routinely work overtime and receive overtime pay. There are about 8 to 10 million people who are qualified to get overtime pay, but they are not working overtime.

Again, if an employer were to ask them to work overtime, then they would get time and a half. Well, this pending regulation would take that away for many workers. And then we'll see their employers require them to work longer hours, without pay.

The first wave of people who will be most affected by this will be working women, women who work on a salary basis, maybe as accountants, working in banks, insurance companies, whatever, women who have children in childcare, daycare centers. Now they are going to be asked to work longer hours with no more pay, but they are going to have to continue to pay more for childcare. This is antiworker. This is antifamily. And its bad economics.

Obviously, if I am an employer, and I don't have to pay overtime pay, and I can work people longer than 40 hours a week, I'm not going to hire new people.

And I will—not today; I know others want to speak this morning—but when we come back next week I will be lay-

ing out in even more detail how it is that American workers are working longer than workers in all other industrialized countries, and now they are being asked to work longer without even being paid for it.

I think this is one of the most crucial issues facing this Congress this year: whether we are going to sit back and let the administration change, sort of by fiat—not by legislation, not through the hearing process and the developing of legislation and the votes here—but just through rules and regulations, to just wipe out—wipe out—the protections 8 to 10 million working Americans have to guarantee that if they have to work over 40 hours a week, they are going to get at least time-and-a-half overtime. Just wipe out the 40-hour work week, that has been law for 65 years now.

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

Mr. HARKIN. Yes, I am delighted to yield to the assistant leader.

Mr. REID. As the Democratic manager of this bill, it has been your intention, has it not, to have this as, if not the most important vote, one of the most important votes in this multibillion dollar bill? I think it is about a \$125 billion bill you and Senator SPECTER are managing. So you consider this a very important vote?

Mr. HARKIN. I say to my friend from Nevada, I consider this—well, we have a lot in the bill for education, but in terms of what we are going to do to protect working Americans, to protect their families, and to ensure their right to get time-and-a-half overtime, this is the key vote.

Mr. REID. Will the Senator yield for another question?

Mr. HARKIN. I am delighted to.

Mr. REID. And it has been a fact that we have presented to the majority since Tuesday of this week the fact we were going to have our four Democratic Presidential aspirants here on Tuesday, and that we wanted to have a vote on this most important amendment on next Tuesday; is that right?

Mr. HARKIN. I say to the leader, yes, that is right. In fact, I was part of a conversation that took place on the floor just last evening regarding that. There were no surprises. The amendment I have offered I actually read into the RECORD yesterday so everyone knew what the amendment was. It has been out there. It is not a very convoluted amendment. It is just a very simple, straightforward amendment. So everyone knew what it was.

Since it is such an important issue, I think we all thought it would be advisable to have as many Senators here as possible to vote on this amendment. Therefore, as I understood it, there was at least some agreement made that we were going to vote next Tuesday on this amendment.

Mr. REID. Mr. President, will the Senator yield for another question?

Mr. HARKIN. Yes, I yield without losing my right to the floor.

Mr. REID. And we also worked very hard, with your staff principally and floor staff generally, to come up with a finite list of amendments Democrats wanted to offer; is that true?

Mr. HARKIN. That is my understanding. I saw the list. I think it was drawn up last night with a finite list of amendments, yes.

Mr. REID. I would finally say to my friend, the distinguished Democratic manager of this bill, the Senator would acknowledge, I am sure, we have been most cooperative in this most important piece of legislation. We have set amendments aside and moved to other amendments for the convenience of Senators.

It is my understanding the manager of this bill now feels so strongly about this overtime amendment, that now this amendment is laid down, and you are not going to agree to set this amendment aside to offer any other amendments; is that true?

Mr. HARKIN. The leader has it correct. I feel so strongly about this, and the fact that we worked with the leadership on the other side and on this side to try to get a finite list of amendments, to get a time certain on Tuesday to vote on this so there would be no surprises to anyone, and then I am told today that has fallen through for some reason. It was not my intention until now, but it is my intention. I have laid down the amendment. There are no more votes today. The leader on that side said there would be no more votes today, that we would have one vote or maybe two on Monday evening, I don't know on what. There are other things up there.

Mr. REID. Will the Senator yield on that issue?

Mr. HARKIN. Yes.

Mr. REID. We had two amendments lined up. We had one or more from the Senator from Louisiana, Ms. LANDRIEU. We had one on Head Start from the Senator from Connecticut, and we had one on libraries from Senator REED of Rhode Island. We had amendments lined up here that would be offered today and we would vote on those Monday.

Mr. HARKIN. But as I understand it, that cannot happen now. So it is my intention, since this is such a vitally important issue—

Mr. SPECTER. Mr. President, will the Senator from Iowa yield?

Mr. HARKIN. In just a second, as soon as I finish my statement.

Since there are no more votes today, and there are only going to be one or two votes on Monday, at the most—I don't know what is lined up—it is my intention that I will object to setting aside my amendment until such time as we have an up-or-down vote on it, which should occur on Tuesday, so there should not be any problem. But I will object to moving off this amendment for any other amendment.

Without losing my right to the floor, I yield to the Senator.

Mr. SPECTER. Mr. President, it is entirely likely the Senator from Iowa

can regain the floor. I would like to make a brief statement.

Mr. HARKIN. I was yielding without losing my right to the floor. I thought you wanted to ask me a question.

Mr. SPECTER. No, I didn't say that, but I agree that you maintain control of the floor.

Mr. HARKIN. Oh, OK.

Mr. SPECTER. And you are just yielding for a brief comment.

Mr. HARKIN. OK.

Mr. SPECTER. Mr. President, the assistant Democratic leader and the distinguished ranking member have been cooperative, I don't think realistically anything above and beyond the call of duty. Senator HARKIN is always cooperative, and so is Senator REID. We have been working on a list for some time and finally got the list late yesterday afternoon. But that was the first time a condition appeared that we would have to set a time certain for an amendment. That is the first time that occurred, and I found it rather surprising.

The Senator from Iowa made reference to an agreement. I don't think there ever had been an agreement as to a time on Tuesday. That would be my preference to accommodate the Democrats. But I think it is not inappropriate to say the calendar, as the Democrats wish it, revolves around the absence of their Members who are running for President, a lofty ambition. It even happened once to Senator HARKIN. It even happened once to me. But the Senate is in session on occasions when the people who run for President are not present.

I can understand your interest in wanting a time certain to have all your Members here. But in regular order, we debate amendments and we vote. In this august body, any Member can tie it up at any time. So that tries to produce comity. I think Senators REID and HARKIN and I have gone a long way to establish comity and try to get the business of the Senate done. I will continue.

There are concerns on this side of the aisle to set a time on that amendment. That is on the substance. There are also a lot of concerns about letting the absentee Democrats set the time. I am prepared to do that because that is the nature of our business here, and Senators do run for the office of President. But it is my hope that as we reflect on this matter over the weekend, cooperation will prevail on all sides, that we try to work to a time which is agreeable to the absentee Senators, that we do ultimately set aside amendments, and that we proceed to take care of the business of the Senate.

I am distressed to know that the amendments which were going to be offered are not now going to be offered. That enables me to return to Pennsylvania a little earlier today. I have a primary campaign in the general election. We are in the election cycle, but this is my day job, and I would be here as late as necessary to finish the work of the Senate.

As far as this week is concerned, on Tuesday we worked 6 hours 45 minutes and had two amendments on which to vote. And we thank the Democrats for offering them. On Wednesday we worked 9 hours 59 minutes, and on Thursday 10 hours 50 minutes. We have only had seven rollcall votes. Two amendments were accepted by voice vote, and we have 92 Democratic amendments and 27 Republican amendments pending. So we have a lot of work to do.

Senator HARKIN and I have worked seamlessly for more than a decade. I expect that to continue into next week. Senator REID has been a master at organizing the Senate. He has spent more time in the Senate Chamber in the last several years than any other Member. I complimented him privately yesterday about his efficiency. I do so publicly today.

I know there are partisan considerations. That is a part of the process. But I hope we can move ahead on Monday to finish this bill and accommodate all of the competing interests.

I thank my colleagues for yielding.

Mr. HARKIN. I say to my friend from Pennsylvania, who has been cooperative, as he said, we have worked together well over a decade. We have always worked these things out to make sure we get a bill through. We will this time also.

My point is that there were at least some conversations last night with leadership on both sides about accommodating schedules and having votes set up on Tuesday.

The fact is that nothing has hindered the progress of this bill because four Democrats are running for President. We have had votes every day. We haven't filibustered anything. We haven't done anything. We have offered our amendments. We have had good debates and discussions, and we have had up-or-down votes. We had two votes today. It was not my decision to have two votes today. I could have had four or five votes today. Someone else above my pay grade made the decision that we would have two votes today and go home.

It was not my decision that on Monday we will have one vote late in the day. Again, the leadership makes those decisions, not I. So Tuesday looks like a day when we will all be here. Everyone is going to be here. That is the day when we can get a lot accomplished.

We are making good progress on this bill. I say to my friend from Pennsylvania and others, when you look at the past, this is a big bill. This bill covers more spending and more Departments and Agencies of the Federal Government than any other bill considered in Congress. In terms of total spending, it is second only to Defense. But it covers a host of Agencies and Departments, more than the Defense Department does.

In the past, in 2001, we had 5 days of floor action on this bill; in 2000, we had 7 days; in 1999, 5 days. In 1998, it was

passed in an omnibus, but in 1997, 9 days. So as you can see, it has always taken 5, 6, 7, 8 days to finish this bill because it covers so many different subjects.

We went on the legislation on Wednesday. Monday was Labor Day. We came in, by agreement of the leadership, with no votes on Tuesday. That was, again, not our decision. That was a leadership decision on the Republican side. So we had Wednesday and Thursday and two votes today. Basically, we have been on the bill, at least voting, really only 2 days. To say we are going to have another couple days or 2 or 3 days on this bill is not exorbitant. It is in line with what we have done in the past.

We would like to finish the bill as quickly as anyone. I think we have been very diligent in bringing up our amendments, offering them, and moving ahead.

Again, I will object to setting aside any other amendment until we vote on this because it is that important. Everyone is going to be here on Tuesday. So we can vote on it on Tuesday, and we can vote on a lot of other things on Tuesday, too, and get a lot of this bill finished on Tuesday when the maximum number of Senators will be here in the Chamber.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I know the Senator from New York is here to make a very important statement.

Let me say this: I appreciate the work of the Senator from Pennsylvania. He has done an outstanding job on this bill, and he and Senator HARKIN have set a pattern for how people should work together on legislation. I recognize it is not Senator SPECTER's decision how we are handling this legislation.

Mr. HARKIN. That is absolutely true.

Mr. REID. We know that. If it were up to Senator SPECTER, we would have the vote on Tuesday at any time we wanted the vote. Someone else is making that decision.

We understand the parliamentary procedure. We know there is a way of getting off the Harkin amendment. They could move to the regular order and move to table Senators BYRD, AKAKA, MIKULSKI, KOHL, KENNEDY, and DODD. But when they get to DEWINE, we are going to offer your amendment as a second-degree amendment. They are not going to figure out in a parliamentary fashion a way to prevent the American people from having a vote on this legislation.

They may pull the bill. This may be a big enough issue for the President of the United States to hurt American workers and help the American business community, as always happens, it seems, with this administration. The people who work, the men and women who work for a living, get it in the rear end. They may want to pull this bill and say we are not going to allow the Congress of the United States to have a

vote on this. If they do that, we know there are other appropriations bills and other issues that come up that maybe this amendment will not be in order, maybe it will not be germane, but we are going to offer it anyway. We are going to continue with this as an issue.

There are cartoons all over the country—I saw one earlier today—making a joke of what the President is trying to do. I saw one that was given to us by the senior Senator from South Carolina that says maybe the point is that they want the American people not have as much leisure time as they have had in the past.

This is by Toles, and this ran in a number of papers around the country. This one is from South Carolina's largest newspaper. It shows a man standing there at his desk. It reads:

In the 1960s, Americans wondered what they'd do with all their free time in the twenty-first century.

The next view reads:

1. Vacationing at sea-floor resort.
2. Eating gourmet meals in pill form.
3. Flying personal car to robot store.
4. Attending spaceball game on Saturn.

The next view shows him with some consternation on his face and reads:

I . . . I just can't decide.

And then the final view reads:

So they have decided for us.

And some little person says to the man at the desk with his head against the computer:

You'll spend your leisure time working a 70-hour week. Without overtime.

Then there is a little man at the bottom who says:

You could take your vacation in pill form.

We believe this is an important issue. Overtime pay has been the law of this land since the 1930s, Federal law. They are going to change it by administrative fiat? I don't think so. They can do a lot of things to stop us, but they can't stop us from talking.

We are going to continue to talk on this until the American people understand what this administration is doing to American men and women. Here it is not subtle; it is just a slap in the face to the American people.

Mr. HARKIN. I thank the assistant Democratic leader for his support and for the support of our working families.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Mr. President, I ask unanimous consent to speak as in morning business for 20 minutes.

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

Mrs. CLINTON. Mr. President, first, I commend my colleagues and leaders, the Senators from Iowa and Nevada, for their heartfelt, eloquent statements on behalf of the rights of Americans to be paid for the work they do. I appreciate greatly that our leader on this bill, the Democratic manager, the Senator from Iowa, has really drawn a line in the sand, because we know we are not creating jobs, we know that more

people have fallen into poverty, and we know that the incomes of more Americans will be cut dramatically if the provision this administration wants to put into effect is allowed to go forward. So I thank them for their very strong commitment.

EPA'S RESPONSE TO THE WORLD TRADE CENTER COLLAPSE

Mr. President, I wish to talk about another very important issue, one that directly affects the people I represent in New York but which I believe affects our entire country and the credibility of this administration and our Government. I am speaking about the report released on August 21 by the Office of the Inspector General of the Environmental Protection Agency entitled "EPA's Response to the World Trade Center Collapse: Challenges, Successes, and Areas for Improvement."

As the title suggests, this report is carefully researched, constructively presented, and it outlines how the EPA carried out its charge in the immediate and longer term aftermath of the terrible attack that struck New York on the infamous day of September 11—now almost 2 years ago. No one will ever forget that day. Those who were there in lower Manhattan will never be able to erase the images—not just the visual images but the feelings, the smells, the sounds, the smoke.

I remember so well being there the day after and seeing the firefighters emerging from the haze that hung over the site, covered in dust and debris; the rescue workers, whom all of us saw, and many of whom I have met, who guided people to safety without a mask or a bit of concern about their own long-term health. I am sure that Americans remember—and New Yorkers lived with—the apartment buildings, the business buildings that were covered in gray dust.

When we turned to our Government in Washington for guidance in the hours, days, and weeks after that tragedy, one of the questions I was asked and I know the EPA was asked, the White House was asked, and the city and the State were asked was: Is the air safe?

What did the EPA tell us? The EPA said: Yes, it is safe. Go back to work, get back to your daily lives.

Mr. President, it is a very hard thing to stand on this Senate floor and say this, but I believe our Government let us down. It wasn't by accident and it wasn't a mistake during the chaos of those terrible days. Instead, as spelled out in this report by the EPA inspector general, it is clear that the EPA was overruled and directed about what to say.

I want to underscore the important fact that this report is not the product of my office, not the product of an advocacy group or an outsider; it was done by the EPA's own career watchdog.

Why do we have inspectors general? Because we know our Government needs somebody to keep track of and

hold accountable for actions that are taken. It is not a Republican or a Democratic job; it is a nonpartisan job. Sort of like Sergeant Friday, they "just want the facts." They want to be able to know what is actually going on in the bowels and processes of these huge bureaucracies that perform so many important functions. But still, like any human institutions, extra eyes are needed on what they are doing.

The inspector general of the EPA looked at the actions EPA took to address the quality of the air affected by the collapse of the World Trade Center and what the EPA told the public about the air we were breathing. The inspector general rightly acknowledges that the EPA, like all of our governmental entities at the Federal, State, and local levels involved with the response to September 11, found themselves dealing with an unprecedented crisis, the scope and nature of which none of us ever imagined.

I admit, and I think it is fair to say, that no part of Government was prepared for the enormity of what occurred on September 11, and that is understandable because of what did happen. So in that spirit, and I think realistically so, the inspector general recognized that the particular demands placed on the EPA were considerable.

I was there day after day, down at Ground Zero in the city, meeting with EPA officials, and I know how stressed they were because of all they were having to contend with. But still, even taking into account the unprecedented nature of the attacks, the implosion of the buildings, releasing into the air billions and billions of particles of all kinds of compounds and chemicals, the EPA inspector general found and asserted that where the Agency could and should have been more thorough, more proactive, more effective in its responsibility, it did not live up to what we should have rightly expected.

We looked to the EPA to give us straight information and help us try to reduce the dangerous emissions in the air from the collapse, from the cleanup and the recovery, and the inspector general looked particularly at the EPA action dealing with monitoring, testing, and cleaning up of indoor air.

I want to make this distinction because I think it is very important. When the towers collapsed, clearly, so much was released into the environment. We could see, as we helicoptered over the site on September 12, the burning fires still. The outdoor air was of particular concern to all of the people—the brave men and women who were on the search and recovery teams, who were beginning to work to remove the debris. But there is another separate and equally important issue, and that is about indoor air, because this blizzard of debris and dust went through windows, went through cracks in buildings, settled on roofs, fell into living quarters and businesses.

As a Senator from New York, I have been particularly concerned about

these air quality issues and the implications for the public's health since September 11. I have worked with other elected officials representing New York and the region. I have worked with our first responders—our firefighters, police officers, and public health professionals. I have worked with residents and workers and businessowners to press for the help and the resources and the information we needed so that the air, both outdoors and indoors, would be clean as fast as possible and that the public's health would be protected as much as possible.

With Senator LIEBERMAN, who was then chair of the Clean Air Subcommittee of the Environment and Public Works Committee, on which I serve with him, we held a field hearing in lower Manhattan in February of 2002 to examine what we thought then were troubling and contradictory messages from the EPA about the quality of air in downtown New York City.

I especially wanted to be sure of the basis for then-Administrator Christy Todd Whitman's statement on September 18, 1 week after the attack, that the air in New York was "safe to breathe."

I pointed out that information from other Government and official sources contradicted that assertion, not to mention the concerns of my constituents who were coming to me asking whether it was safe for them to go back to work, to bring their children home because of what they could feel and smell in the air. Every time I went down there, my eyes burned and my throat burned. It was a palpable feeling that we were in an environment that may not be safe.

I do not think either Senator LIEBERMAN or I at that hearing received a straight answer. I am not sure we ever got a straight answer in the time between September 11, 2001, and August 21, 2003. In fact, we know we did not because the inspector general's report confirms that New Yorkers and others affected were, in fact, misled about the most fundamental issue: whether the air they were breathing, the breaths they took were safe.

I find this deeply disturbing and very disappointing. Let me quote from the report itself. I have excerpts from the report on these two charts.

In the executive summary of the report, the inspector general says in the very first finding:

EPA's early public statements following the collapse of the World Trade Center Towers reassured the public regarding the safety of the air outside the Ground Zero area. However, when EPA made a September 18 announcement that the air was "safe" to breathe, it did not have sufficient data and analyses to make such a blanket statement. At that time, air monitoring data was lacking for several pollutants of concern, including particulate matter and PCBs.

Furthermore, the White House Council on Environmental Quality, influenced, through the collaborative process, the information that the EPA communicated to the public

through its early press releases when it convinced the EPA to add reassuring statements and delete cautionary ones.

The inspector general later on in the report states:

Based on the documentation we reviewed and our discussions with numerous environmental experts, both within and outside the EPA, we do not agree with the Agency's statement of September 18, 2001, that the air was safe to breathe reflected the Agency's best professional advice. In contrast . . . it appeared that the EPA's best professional advice was overruled when relaying information to the public in the weeks immediately following the disaster.

Basically, what the IG is saying is that the EPA did not have the testing data and analyses to make the statements it did, and that the best professional judgment of the EPA experts was influenced by the White House itself.

As examples of where White House officials intervened and what the EPA told the public at the time, the inspector general reports that the White House had the EPA remove recommendations that all area residents obtain professional cleaning of their homes and offices and told the EPA to remove any reference to the increased risks from air pollution for sensitive populations, such as young children and the elderly.

On these charts, I now want to turn to the actual examples that the inspector general includes in the report of where and how the White House evidently—although we do not know this—evidently, through its Council on Environmental Quality, dictated very specific changes to the EPA on what it could and could not say in its press releases to the public.

Here we see in vivid language, to once again use the very words of the inspector general's report, the White House's role in insisting that "the EPA's overriding message was that the public did not need to be concerned about airborne contaminants caused by the World Trade Center collapse."

If we look at these charts, we can see very clearly what was told by the White House to be changed. Here is the draft press release from the EPA, and it reads:

Recent samples of dust gathered by OSHA—

The Occupational Safety and Health Administration—

on Water Street show higher levels of asbestos in EPA tests.

The issued press release after the White House dictated the changes:

The new samples confirm previous reports that ambient air quality meets OSHA standards and consequently is not a cause for public concern. New OSHA data also indicates that indoor air quality in downtown buildings will meet standards.

Draft press release:

Seven debris and dust samples taken Thursday showed levels of asbestos ranging from 2.1 percent to 3.3 percent. EPA views a 1 percent level of asbestos as the definition for asbestos-containing material.

Changed press release at the White House direction:

Debris samples collected outside buildings, on cars, and other surfaces contained small percentages of asbestos, ranging from 2.1 to 3.3—slightly above the 1 percent trigger for defining asbestos material.

These are statements that were added to the press release based on the White House instructions. Here was the instruction from the White House:

Add sentence about OSHA monitors walking the streets yesterday and wearing personal monitors and coming up clean.

Of course, the EPA did what they were told by the White House. This is what they said:

OSHA staff walked through New York's financial district on September 13th, wearing personal air monitors, and collected data on potential asbestos exposure levels. All but two samples contained no asbestos. Two samples contained very low levels of an unknown fiber which is still being analyzed.

Of course, what we know now is that they had not done the analysis. They did not have the data. So, basically, the White House decided they better invent some and put it in the press release so they could create more reassurance than what the facts clearly indicated.

The White House says: Get a quote in from somebody in charge, somebody with some responsibility; put a quote in so you can get people back to work and back to living downtown. So they came up with a quote by a Mr. John L. Henshaw, Assistant Secretary of Labor for OSHA. This is the quote they put in:

Our tests showed that it is safe for New Yorkers to go back to work in New York's financial district.

They just made it up: Might as well tell them it is OK to go back to work; don't put in any cautionary language about children or the elderly, people with preexisting asthmatic, pulmonary, or respiratory conditions. Tell them it is safe.

It is really discouraging, I have to say, to go through this because it is not what any of us expected. It is certainly not what any of us told our constituents and what we were told as we walked these streets and as people asked: Is it OK to go back?

I believe this is the kind of interference by Government altering scientific data, putting happy talk in where mature and accurate information would be better suited, and that does our Government a great disservice.

I conclude with these two final changes: The draft press release that the experts at EPA put out had this caption:

EPA Initiating Emergency Response Activities, Testing Terrorized Sites For Environmental Hazards.

That sounds pretty descriptive. That is what they were doing. That was their job. That is what we expect the EPA to do, to go do the emergency response activities and test for environmental hazards.

This is what the White House said they had to put as the caption:

EPA Initiating Emergency Response Activities, Reassures Public About Environmental Hazards.

We went from testing to reassurance because of changes in words dictated by the White House, not based on data, not based on science.

Then this final example, the draft press release said:

Preliminary results of EPA's sampling activities indicate no or very low levels of asbestos. However, even at low levels, EPA considers asbestos hazardous in this situation and will continue to monitor and sample for elevated levels of asbestos and work with the appropriate officials to ensure awareness and proper handling, transportation and disposal of potentially contaminated debris or materials.

I have no problem with that. That is a very thoughtful, informative statement: Thankfully, our testing shows very low levels at this point but we want to caution people because even very low levels can be dangerous, so we want to tell you what you should do to deal with this dust that is everywhere, that is in your house, that covers everything from your drapes and your rugs to your teapot sets, that is filling the streets and the roofs, so we are going to tell you what we need to do.

Here is what the White House told them to say instead:

EPA is greatly relieved to have learned that there appears to be no significant levels of asbestos dust in the air in New York City, said Administrator Whitman. We are working closely with rescue crews to ensure that all appropriate precautions are taken. We will continue to monitor closely.

Public health concerns about asbestos contamination are primarily related to long-term exposure. Short-term, low-level exposure of the type that might have been produced by the collapse of the World Trade Center buildings is unlikely to cause significant health effects. EPA and OSHA will work closely with rescue and cleanup crews to minimize their potential exposure, but the general public should be very reassured by initial sampling.

Nothing about proper handling, transportation, or disposal.

These are very disturbing revelations. What the EPA wanted to report to the public in their press releases and communication was different from what they did report, and yet all of us relied on those reports.

I have talked to a lot of parents with kids who live downtown. I have talked with a lot of business owners. They asked me whether they should send their children back to the schools when they opened, whether they should go to work when the businesses reopened. Based on both the public information and the private information that I had solicited, I said, yes, from all we know, we think it is safe.

I understand what tremendous challenges these horrible events caused for everyone, but I just cannot come up with any excuse, justification, or rationale for the White House to interfere with the agency in charge of providing accurate and trustworthy information about whether our air indoors and outdoors is safe to breathe. Dic-

tating what the EPA can generally say is inexcusable, but making them misinform the public on such a critical issue is outrageous.

As the inspector general's report clearly points out, the EPA has a clear mandate to communicate honestly and openly with the public about environmental hazards and risks. The reporting even lists the Agency's own seven cardinal rules of risk communication in carrying out these important roles that they have done over the years in dealing with countless situations such as toxic spills and explosions. Those rules were tampered with and the public was misinformed.

On Tuesday, August 26, Senator LIEBERMAN and I wrote to President Bush to convey our serious questions and concerns about what we have learned through the IG report. We asked the President to provide Congress and the public with an account of what took place in the White House that resulted in changing the content and the overall message conveyed by EPA through its press releases. We asked for the identities of the White House officials referred to in the report, who played a role in imposing these changes, for an explanation on why the White House felt compelled to insist on the changes, and copies of the actual communications between the White House and the EPA about the air quality in downtown New York.

We asked for a response by September 5 with the hope of obtaining a full and frank explanation of the sequence described in the report and be assured that the EPA does indeed have the authority and the liberty to communicate accurately with the public on what it knows.

I know the White House did not cooperate with the inspector general report but I hope they would want to get to the bottom of this and learn the lessons that we should not only about the past but going forward. However, I cannot say that I will be surprised if we continue to hear from the administration some of the same excuses that they have been making in response to the IG's report.

In one statement reported a few days ago, former EPA Administrator Whitman said: We did not want to scare people.

White House representatives have said that the edits and changes imposed on the EPA were necessary for national security reasons.

Frankly, this is a canard. The public deserves better. When it comes to our health, the health of our children, the health of our elderly relatives, we need accurate information in a timely manner.

Should we have worn a mask? Should we have gotten more sophisticated respiratory protective gear? Should we have gotten a professional cleaner to clean our apartments before we went back? The public needs to know what the risks are so they can appropriately respond.

To say that national security somehow justifies telling people the air is safe when it is not is to essentially say that people are going to be told that when they need their Government the most at a time of terrible disaster they cannot trust what they hear.

A national crisis does not justify giving people the wrong information and continuing to do so days, weeks, and months after the event.

Would any of us have wanted to worry that the Centers for Disease Control had changed what they were telling us about SARS or the West Nile virus or any other public health incident? Would we ever want to question the FDA about what they tell us when it comes to drugs available in our pharmacies? Should we ever fear the EPA's information about a toxic spill in our community or our own backyard? What the inspector general told us in its August 21 report is that we have to raise these questions now.

What I hope we can achieve from examining this report and seeking answers is that all New Yorkers and Americans will be assured that in the future the EPA and all parts of our Government responsible for communicating to the public about our health and safety will do so honestly and accurately without any political interference.

I have talked about this report and the serious issues it raises with residents who live near Ground Zero. These New Yorkers have been through so much. Many of them were forced into homelessness for months. Many faced devastated neighborhoods when they returned home.

For them, who have lost so much, it is tragic if they lose one more precious thing, namely, their trust in their Government, their faith that they would be given accurate, truthful information they could make judgments on. People made life decisions based on what the EPA told them. Families moved back into the area with their children. Parents sent their children to school. Doctors told their patients not to worry because of what the EPA told them.

To restore any semblance of that trust, we need to get to the bottom of what happened. I hope the administration, led by the White House, will understand that and will help us do what we need to do which is, number one, to find out what the truth was, unvarnished, without any embroidery or reassuring words, just what it was; second, do an analysis of the quality of the indoor air now. These particles, these contaminants stay in rugs, drapes, and air vents. We need to know whether people are living in places right now that are putting their health at risk. Then our Government needs to show good faith by doing what they said they would do, namely, to make sure the indoor air quality was cleaned up. And, perhaps most importantly, we need to restore that trust which has been breached.

I hope the administration will help. These events also require oversight by

the Congress. A number of my colleagues have asked we hold hearings in the Environment and Public Works Committee. I hope we will. I cannot imagine anyone representing any State in this country with so many constituents still coughing, who have acquired severe asthma, who have pulmonary dysfunction, not asking for the very same thing I am asking for, congressional hearings and a full, cooperative relationship with the administration.

I conclude by responding to one of the constant themes I hear from the administration, that they did not want to cause panic, they did not want people to be upset. If New Yorkers had to prove this one more time, they certainly did on September 11th and they did it again in the blackout. These are terrible times that try people, but New Yorkers rise to the occasion no matter what it is. They would have taken accurate information and acted accordingly. They would have done what they needed to do to take precautions for themselves, their children, their friends, their neighbors.

I cannot imagine this idea we did not want to cause people to panic. There are many ways of saying—we saw from the EPA's own language—the truth and then telling people, here are the necessary steps you should take. There is not one firefighter, not one police officer, there is not one construction worker I met who would not have gone out of that pile, would not have tried for days to find survivors, would not have begun to remove the debris, to put the message clearly out to the world and the terrorists that we were not in any way daunted or fearful. Not one. But they might have worn their masks and asked for and demanded better respiratory protection. Instead, the Government says the air is safe.

I have not met one family member or business owner who did not want to go back downtown and rebuild and live their lives again. They would have done it. But maybe instead of cleaning with a wet mop and a wet cloth to try to get rid of asbestos and PCBs, they would have done what the EPA said, go out and get a professional cleaner. But the air was safe.

This in and of itself is a serious, profoundly important issue that has disturbing consequences, particularly when it comes to the trust we should be able to place in our Government, believing they are looking out for our best interests when it comes to health and safety. I hope the administration will respond to my letter, that the Senate will hold hearings, and we will all make it absolutely clear we will not abide misinformation and political interference in something as important as the air we breathe.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 1580

Mr. HARKIN. Mr. President, I know we are still on the Labor, Health and Human Services, Education appropri-

tions, and I wish to speak for a little while on the pending amendment which I have laid down prior to the distinguished Senator from New York speaking. I want to follow up and speak for a little bit longer on that. I know my colleague from Alabama and maybe others are here so I will try to be as succinct as possible, but I did want to, before the weekend came, to again lay out for the Senate and for the Nation why it is so important for us to take action, to stop the implementation of these proposed changes in rules and regulations that deal with overtime pay.

I thought I would take some time now to, number one, respond to some arguments made by the Senator from Wyoming yesterday, Senator ENZI, but also to again give some personal stories of what is happening to people around the country today and how others might be affected with these changes in rules and regulations.

As I have done with the rules and regulations, you can read them. If you want to go to sleep fast, try reading rules and regulations sometimes. That will put you to sleep. It becomes a blur out there as to what all these fancy words and phrases and subparagraph and titles all mean. But when you get through it all, it means people are affected one way or the other, either for good or for ill. It means workers are either supported in their jobs and their family life or they are not.

That is what these changes and rules are about, affecting human beings and their lives and how they live and how they work and what their quality of life is going to be.

Again, a couple of things I want to lay out. One, to lay out what the industry has said about the proposed overtime rule. I also wanted to bring specific examples and then show what has happened to the workforce over the last few years because, as I said earlier, the first wave of people to be hit by this proposed change in rules and regulations, if they go into effect, are working women. I will show why that is so in my comments this morning.

First of all, the Bush administration has said the proposed rules on overtime will not substantially change the exempt and nonexempt status of American workers. They say they merely want to "clarify the current rules."

I believe this is misleading, at best. The proposal will have a sweeping effect on millions of Americans and will unalterably change, will change fundamentally, the basic principle of the 40-hour workweek as we have known it since 1938.

Don't take my word for it. Look at some of the comments from industry. In May 2003, an analysis by Hewitt Associates, which advertises on their Web site as a global human resources outsourcing and consulting firm, says on their Web site their client roster includes more than half of the Fortune 500 companies. Here is their analysis of the proposed rule changes:

These proposed changes likely will open the door for employers to reclassify a large number of previously nonexempt employees as exempt. The resulting effect on compensation and morale could be detrimental as employees previously accustomed to earning in some cases significant amounts of overtime, would suddenly lose their opportunity. That is from Hewitt Associates.

And from the Society for Human Resource Management, which on its Web site says it is "the world's largest association devoted to human resource management." And regarding the proposed overtime changes, the society said:

This is going to affect every workplace, every employee, every profession.

So, again, whether we hear from the administration, from the Department of Labor, that this is simply a clarification, these are simple little clarifications. Meanwhile, the main human resource management association and a human resource consultant for Fortune 500 companies say this is big stuff. It is going to affect every workplace, employee, every profession, according to the Society for Human Resource Management.

This same Society for Human Resource Management said the proposed rule is not clearer than current regulations. Deron Zeppelin told the Chicago Tribune:

It looks like they're just moving from one ambiguity to the next.

Again, as I said, according to the Chicago Tribune:

The Labor and 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.

I thought we wanted to reduce the number of lawsuits. My friend from Wyoming argued that we have all these lawsuits out there right now. But this is going to open the door for even more lawsuits. The reason we are having lawsuits out there now is because employers are already violating the Fair Labor Standards Act, in terms of the 40-hour workweek. I will refer to that more later.

The Chamber of Commerce said, on the proposed rule, in their formal comments:

We support raising the minimum compensation necessary to qualify as an exempt employee provided that such change is made in conjunction with significant reforms of the duties and salary basis test.

Understand what they are saying. They are saying we can raise the minimum compensation, that is fine, but not unless we have significant reforms of the duties and salary basis test—significant; not minor, not simple clarification but significant reforms.

The American Corporate Council Association, and I am quoting from their statement:

... also supports other aspects of the present draft, including creating a new computer employee exemption; eliminating discretion and independent judgment test as a criterion of the professional exemption;

eliminating the primary and nonprimary duties criterion of the administrative exemption; and the changes made to the outside sales exemption.

For the uninitiated, in all this fancy jargon, what the American Corporate Council Association says is that they want a major exemption for computer technicians from overtime protections. They also want to really relax the current "duties" test to be exempt from overtime to incorporate more workers in the overtime exemption.

These are big changes, sweeping changes in who would get overtime pay and who would not.

Last, the National Association of Manufacturers said, on eliminating the academic study requirement for the professional exemption—right now it is generally based on 4 years of college. If you have 4 years of college that is sort of the first hurdle that you would be exempt as a professional employee. It doesn't necessarily mean you are exempt, but its one of the key requirements to be exempt. The proposed rule changes all that. It just says you can replace that academic requirement with work experience or training. I get it, you do the exact same job for a couple of years—let's say, nursing—so you go from getting overtime to being reclassified as a professional from all of that experience—and you no longer receive overtime pay although you're doing the exact same job. Well, the National Association of Manufacturers appears to think that's a great idea. They applauded the Labor Department for including this alternative means of establishing that an employee has the knowledge required for the exemption to apply.

Again, what does that mean? You don't need 4 years of college. You could have on-the-job training, a high school degree and, bang, all of a sudden you are a professional, and they can say you are exempt.

So when you hear people say these are minor changes, they are not minor at all. That is why 8 to 10 million people are going to be affected by this.

Again, there is the argument that we need to update these rules. I am all for updating them. The Senator from Wyoming spoke the other day about some of the occupations that are still listed. I think one of them was straw man—I forget what some of the others were. Oh, a leg man and a straw man and all that—fine. If they want to tweak the regulations to get rid of those jobs that no longer exist, fine by me. But don't take overtime pay protection from those workers, those jobs that currently have it.

The fact is, the Department has revised overtime regulations several times since 1938 just because, obviously, jobs change. Some of the things they covered before don't exist. Obviously a straw man, whoever that was, or a leg man, whatever that was, doesn't exist anymore. If they want to do away with that or change that, that is fine. But that is not what they are

doing. So if they want to update them to match current occupations, that is fine. If the administration had done that, that would have been OK. But they went far beyond that.

I have just a few other brief things. The Senator from Wyoming said the other day the amendment I offered would not allow the Department of Labor to review the 78,000 comments they got in. That is simply not true. My amendment says they can't promulgate these rules and regulations. They can have the comments, they can look at them, they just can't issue a rule that would take away the present overtime protection that workers now have. That is all my amendment does.

And he said my amendment would block an increase in the income threshold for low-income workers. Again, that's just not true. My amendment specifically only prohibits implementing a rule that would take overtime pay protection to those millions of workers who currently have it. We would support new rules to increase overtime pay protection for workers.

Then the Senator from Wyoming said the union contracts protect overtime. That is true, union contracts do. But union contracts right now only cover 13 percent of the workforce in America. What about the other 77 percent who are not covered? And right now when a union goes out and the contracts expire, overtime is not an issue. Why? Because the law says they have to pay overtime.

So when the contract comes up, that isn't even an area for negotiation because the law says they have to pay them overtime over 40 hours. Now with these proposed changes in rules and regulations, every time a union contract expires, that is a negotiable item. We have to negotiate for whether or not they will get paid overtime. That means they will have to give up something else in order to get overtime.

There is something floating around about first responders, nurses and such, and that somehow that wouldn't be changed. But we have been through these rules and regulations. There is no exemption. There is no carve-out for policemen, for firemen, and first responders. Not one thing in this carves them out. I have heard it said that the administration said sort of quietly that maybe they will not include this. I don't see that anywhere.

Lastly, it has been said that wage and hour cases now exceed discrimination suits. Well, I wonder which. Maybe it is because a lot of employers are now basically violating the Fair Labor Standards Act because they can get away with it.

For example, Wal-Mart, the largest retailer, is facing 37 lawsuits in 29 States from employees alleging they were illegally forced to work extra hours to meet corporate productivity demands—not 1 but 37 lawsuits in 29 States.

In fact, in December, a Federal jury in Portland, OR, found Wal-Mart guilty

of asking workers to clock out and then to return to work unpaid. A Federal jury found them guilty of doing that. Workers clocked out and then they had to come back and work overtime without getting paid.

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

Again, maybe it doesn't surprise me that wage and hour cases are now exceeding discrimination cases.

The proposed rules and regulations would make this legal and say to Wal-Mart you are off the hook. All these lawsuits would just fall by the wayside because of a change of law, and they could exempt these people. They are big changes.

I said earlier that the first wave of people who would be hit by this would be working women. I want to show you what I mean by that.

This chart shows basically what is happening in the workforce in America—from 1948 to 2002. As you can see, the labor force participation rates for men and women have steadily declined. Look at what has happened with women—going from slightly over 30 percent to a little over 60 percent of the workforce in that period of time. More and more women have entered the workforce over that period of time.

Here are some other statistics.

In 1975, 44.9 percent of women with children were in the labor force in 1975. In 2001, 70.8 percent of women with children were in the labor force. In 1975, 30.8 percent of the women who worked had children under the age of 2.

Today, 58 percent of the women in the workforce have children under the age of 2.

Here are two more statistics.

Twenty-eight percent of working mothers work nights or on weekends. Forty percent of working mothers work different schedules than their spouses.

What that adds up to is families are working longer and longer, and they are taking time away from their families to make ends meet. This chart shows the average weeks worked per year by middle-income families with children.

In 1969, the average family with children worked 78.2 weeks per year. We know there are 52 weeks in the year. That means that perhaps someone worked 40 or 52 weeks, and someone had a part-time job and they worked maybe 28 weeks during the year in 1969. In 2000, the weeks worked by the average middle-income family with children was 97.9 weeks per year.

Where is that coming from? It is coming from the women in the workforce who are working longer hours, working nights, and working weekends. They are the first ones who are going to be hit by these changes in overtime laws. Many of these women are working as secretaries, as claims adjusters,

as nurses, bookkeepers, social workers and paralegals. They are salaried. They work in insurance companies and banks. Right now, if they work over 40 hours, they are paid overtime. Under these changes, their employers can legally take away their overtime.

Let me give a couple of examples of people who would be affected by these changes.

Here is Michael Farrar who works at the NAV/AIR depot in Jacksonville, FL. He is a cost estimator at the NAV/AIR depot who specializes in aircraft engine and component production and repair. If he loses his right to overtime pay, he will be paid straight time for any hours over 40 per week.

He says:

If I don't get my overtime, it will be hard to exist.

He and his wife rely on overtime pay to support their 21-year-old disabled son who lives with them.

He says:

When I took this job, it was clear that I was supposed to work more than 40 hours a week, and I agreed to that because I knew I would need the money. We would be devastated without the overtime. We have no more corners to cut.

Let us not go back 40 years with these proposed Bush regulations. Let us go forward and pay people what they deserve.

Here is Susan Moore, a planning coordinator from the Chicago Park and Planning District, a member of the International Federation of Professional and Technical Engineers.

She says:

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

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

Mr. HARKIN. Yes. I would be glad to yield to my friend from California.

Mrs. BOXER. I thank the Senator so much.

I have been trying to thank the Senator for a couple of days now, but it has been hard to get a moment. I am so glad I have this moment to thank him so much for giving us an opportunity here in the Senate to stand up for working families.

I want to read just one letter I received from a woman in my State and ask the Senator to comment because his point is so right.

This Bush administration rule, which would take away the pay from hard-working people, is an attack on America's families. What is so interesting to me is, when I think back after 9/11 and the President going to Ground Zero and standing with his arms around firefighters and saying, "These are the he-

roes," the firefighters are the ones who are going to be hurt by this change. The safety workers are going to be hurt.

I want to read a letter, and I want to ask you to please comment. Celine Krimston, the wife of a firefighter from La Mesa, wrote:

We are a family of four. Our children are four months and five years of age. I work full time outside of the home to make ends meet for our family. My husband's firefighter income is not enough to support a family of four, yet too high to receive any type of subsidy. Without the overtime pay we would actually be deemed low income and qualify for subsidized childcare. Our nation should be ashamed!

Please support America's working families by voting against the Bush administration's proposal to cut overtime.

So all I want to do today, in this brief interlude, if you will, is to thank you. These working people—who barely have time for their kids, who are struggling to make ends meet, to put food on the table, to pay the rent or the mortgage, to give their family a modicum of security—are under attack by this Bush rule.

I want you to comment on this, if this does not reflect the comments you are hearing as our leader on this issue?

Did it not strike you—let's just use the word in an ironic way—when President Bush stood, on Labor Day, with a group of working people and talked about how much he understood that they were going through hard times and how important it was for them to get jobs? By the way, we have lost more jobs now than ever in history since Herbert Hoover, since the Great Depression.

But while he is doing this missionary work and trying to tell working people how he is going to get them jobs, he is also going behind their back and cutting their pay with this rule.

I wonder if my friend would comment on those two issues: The irony of this hitting our firefighters, our first responders, and also the fact that at a Labor Day event the President was saying how he understands working people, and then putting this provision in, which is such a disaster for our people.

Mr. HARKIN. I thank the Senator from California for her observations and her questions. I again thank my colleague from California for her many years of working so hard on behalf of our working families. There is no one who has worked harder and longer and fought more diligently for the rights of working families, working men, working women, in this country than Senator BOXER of California.

I say to the Senator, I am proud to have you on our side in this fight, too, because it is a fight for justice. It is a fight just to make sure people are treated decently as human beings.

I guess in my fondest, perhaps, hopes, maybe President Bush didn't even know about this, and this was going on underneath him. Maybe through our debates here he will find out about it

and say: What is happening? Who is doing this on my watch? Well, the buck does stop at the President's desk. Maybe he doesn't even know this is going on but the people he has hired underneath him are implementing this. So maybe our debate will enlighten the President. Maybe some word will get to him and he will say, "What is going on?" and he will become alarmed at what people under him are doing, and perhaps he will put a stop to it. That would be my fondest wish.

Mrs. BOXER. Will my friend yield?

Mr. HARKIN. Yes, without losing my right to the floor.

Mrs. BOXER. I would hope your wish comes true, but I understand we received a message that he would veto this bill with this in it. Let's hope he knows that letter came over here because, frankly, if he doesn't know it, he is not doing his job. So I have to assume he knows it. That is my own view, not that I want to ruin your day.

Mr. HARKIN. Well, no, as I say, hope springs eternal. I was hoping maybe the President might learn about this. We did get this veto message from the White House.

I say to the Senator from California, this is mind-boggling. Here is an appropriations bill that funds all education, all health care, all research at the National Institutes of Health—on breast cancer, on emphysema, on diabetes; all this wonderful research done to help people live their lives better—Head Start Programs, job training programs, and he is going to veto the whole thing if we stop these rules and regulations from going through that takes away overtime. To me this is mind-boggling.

Again, I hope it is his underlings doing this, and maybe he doesn't know about it yet, and maybe he will learn about it. I hope he will learn about it. Maybe he will tell his people to stop this nonsense.

Mrs. BOXER. Maybe he will take back that letter he sent us.

Mr. HARKIN. I hope he would take that letter back and say he wouldn't. The idea of having a veto threat out there, to veto this entire bill, if the Senate works its will and says: No, we are not going to let these rules and regulations come into effect, this almost borders on the bizarre that something like this would happen.

I thank the Senator.

I see my great leader. Again, talk about a fighter for working families in America, there is no one, including me and the Senator from California, who has fought harder and longer for working families than the Senator from West Virginia.

Mr. BYRD. Will the Senator yield?

Mr. HARKIN. I yield.

Mr. BYRD. My friend, you are living in a dream world if for a moment you think this President doesn't know what he is doing. You are living in a dream world. I hope to be with you in your dreams at some point.

Mr. HARKIN. As I said, hope springs eternal. And I always believe in redemption. The hope for redemption is

always there, that the wayward will come home and find the true path. And I hope the President will sit down and think about this and understand what is happening on his watch with regard to this issue.

So I appreciate what my friend from West Virginia has said. I would hope this would happen. But again, we can't go on hope around here. We have to go on what reality is. And the reality is, the Department of Labor, under this administration, has promulgated these proposed changes in overtime. They will go into effect unless we take this action. That is the real world we live in. That is why I have offered this amendment. And that is why I feel so strongly about it.

Oh, there are maybe a few things that each of us gets interested in and gets involved in because we feel deeply about them. One of the issues I always get involved in and for which I take the floor is to make sure we expand and promote opportunities for people with disabilities in our country. This goes back to when I was the chief sponsor of the Americans With Disabilities Act. So this is another area in which I always keep a close watch and find out what the administration and the Supreme Court and others are doing to cut down on the rights of people with disabilities. That is one area.

Another area I feel so strongly about is our working families, working people who don't have a lot of say-so over their jobs. They go to work every day. They do what their bosses tell them. They put in extra effort and extra energy. A lot of times they don't get paid overtime for that extra few minutes every day, that extra effort. But if they are asked to work overtime, they should get paid. If they are taking time away from their families to work overtime, they ought to be justly compensated for it. That is why I feel so strongly about this.

I couldn't say it any better than Sheila Perez of Bremerton, WA. Here is what she said:

I began my career as a supply clerk earning \$3.10/hr in 1976. I recognized early in my federal career that in order for me as a working single parent to support my family, I needed to find more lucrative employment. I entered an upward mobility program and received training to become an engineer technician with a career ladder that gave me a yearly boost in income. It seemed though that even with a decent raise each year, I really relied on overtime income to help make ends meet. There are many more single parents today with the same problem. How does one pay for the car that broke down or the braces for the children's teeth? Overtime income has been a lifesaver to many of us. When I as a working mother leave my 8-hour/day job and go home, my second shift begins. There is dinner to cook, dishes to wash, laundry, and all the other housework that must be done which adds another 3 to 4 hours to your workday. When one has to put in extra hours at work, it takes away from the time needed to take care of our personal needs. It seems only fair that one should be compensated for that extra effort. Overtime is a sacrifice of one's time, energy, and physical and mental well-

being. Compensation should be commensurate in the form of premium pay as it is a premium of one's personal time, energy, and expertise that is being used.

That is a great sentence that Sheila writes:

Compensation should be commensurate in the form of premium pay as it is a premium of one's personal time, energy, and expertise that is being used. It has been a crime that many engineers and technicians were paid less than even their straight time for overtime worked. It has never made sense to me that the hours I work past my normal eight are of lesser value, when those additional hours are at a cost of my personal time.

Sheila Perez from Bremerton, WA. I could not say it any better. That is what this fight is all about. It is about people who get up and go to work every day. They pull their load, pay their taxes. They are good citizens. They raise their families. They want to spend time with their families. If they are being asked to work overtime, as Sheila said, that is premium time. That is personal time. That is family time. They ought to be paid for it. They ought to be paid time and a half for it.

What these proposed changes would mean is that Sheila Perez could be asked to work over 40 hours a week and not get paid one penny more than what she is being paid right now. She would not be paid anything more if she were on a salaried basis. It is sort of free time.

That is why I said the other day, not only is this President and this administration shipping jobs out of the country, they are now importing into this country Third World labor standards: work 60 hours a week, no overtime, no commensurate pay.

We will have another issue on pensions where they are trying to change the pension program, take away the rightful pensions which people have earned, privatize Social Security, privatize Medicare. It doesn't sound like the America I grew up in and the America that built a strong and viable middle class.

Right now American workers work longer per year than workers in any industrialized country. The International Labor Organization found that American workers put in an average of 1,825 hours a year, average. In Europe, French workers have an average of 1,545 hours per year; German workers, 1,444 hours per year. So we are already working longer. Now they want us to work longer without any pay. That is why I have said this is antiworker. It is antifamily to change these rules and regulations as they want.

I have had my say. I know others want to speak. I ask unanimous consent to add Senator JOHNSON as a co-sponsor of my amendment.

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

Mr. HARKIN. I will have more to say about this next week. I hope we will vote on this up or down when next Tuesday comes. But I hope the American people get the word about what is

happening. These proposed rules came out without one public hearing, not one. There still haven't been any public hearings. Why don't they go to Dallas, TX, or Des Moines, IA? Why don't they go to Detroit or Los Angeles? Why don't they go to West Virginia, have public hearings and listen to what people might have to say about this? No, they just want to ram them through without any public hearings.

This is our public hearing. This is the public's house, the Senate and the House of Representatives. Here, as we once said, the people rule. Here we are supposed to do the work of the people, not the special interests. The American people want us to fight for them and for their rights, to support them in the workplace and to support their families. That is what this fight is about—nothing more, nothing less. That is why this Senate needs to speak, and we need to vote early next week to say no to the Bush administration's proposed changes in overtime rules and regulations.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Iowa for his position on this matter, for his words today on this subject. I will always remember Senator TOM HARKIN for standing up for the working people of this country. Through the years that I served with him, he has never deviated from that course. He has never veered from that course: standing up for working people, the common people, the men and women of America who work with their hands, who get their hands dirty, whose hands show the horns of toil and working. I will never forget him for that. He has always been that way.

I think he has a streak of that coal miner in him. He doesn't want to go back to the 1930s. What would have happened to me in the 1930s? I was married in 1937. I worked as a produce boy. I don't mind being called boy.

I was a produce boy in a company store in the mining camp where my foster father was a coal miner, where my wife's father was a coal miner. I was a produce boy, produce salesman. I got out on some Sunday afternoons.

I am a Baptist. I was a man who revered the Bible long before George Bush ever got to this place. When he was running around in knee pants, I believed in the old time religion. I wasn't a Christian to the left or to the right. I believed in the old time religion that comes from the King James version of the Bible. If you want to stir up the churches, take me. We will sing "Amazing Grace." We will get them out into the aisles, those who are not afraid to say: Amen, amen. So he speaks the language of the working poor. No, he is not mistaken about President Bush. I respect President Bush. He is President of the United States, but he came from the other side

of the tracks. He didn't come from the side of the tracks I came from, or where the Senator from Iowa, I would venture, came from. I didn't come from the corporate boardrooms of this country.

I came from the coal camps. I lived during those days the Senator is talking about, back in the 1930s. I worked 6 days a week. I was glad to have a job. I remember when I was making \$70 a month working in a butcher shop. I was a butcher. I was a produce boy. Yes, we worked long hours. We didn't get paid time and a half when I was in the butcher shops in southern West Virginia, but we were glad to have a job. I made \$70 a month. Imagine living on \$70 a month. Of course, things were cheaper then. But we didn't get time and a half. We had to work whatever time was required to hold our jobs.

My dad had to clean up his "place" back in the coal mines. They would shoot down the slate and the coal, and he was expected to clean that up before he went home. He was glad to have a job. There was always someone else there waiting on his job. If he didn't want to clean up the place, somebody was waiting to take his job.

I thank Senator HARKIN for his leadership, and count me as one who stands with him.

IRAQ

Mr. President, after a dismal summer of watching the situation in Iraq spiraling from bad to worse, the White House appears to have finally—finally—acknowledged what many of us have understood from the beginning. It is going to take huge amounts of money—your money; aha, they like to talk about that term "your money"—it is going to take large amounts of your money, a long-term commitment, and substantial help from the international community to restore order to Iraq.

After stiff-arming—I will say that again—after stiff-arming the United Nations for its refusal to rubberstamp the administration's war plans for Iraq, and alienating some of our staunchest allies in the process, the White House—hear me down there—has finally acquiesced to seeking a new resolution that potentially would give the United Nations a vital role in postwar Iraq that the President once pledged.

I only hope this change of heart on the President's part is not a lesson too late for the learning. The United States has squandered on Iraq so much of the international good will that followed the September 11 terrorist attacks that it may be impossible to regain all the ground that has been lost.

It is particularly ironic that the administration's decision to seek a new resolution to win international support from the United Nations comes almost exactly 1 year after the President sternly warned the United Nations that it faced becoming irrelevant if it failed to support the United States on Iraq. How far off the mark that assessment turned out to be. How far off the mark. Instead of being irrelevant, the United

Nations has emerged as America's best and possibly only hope to win desperately needed international support for the postwar mission in Iraq.

It is deeply ironic that the administration is seeking an estimated \$60 billion to \$70 billion in additional funding for Iraq from the American taxpayers—your money, I say—at a time when the Senate is debating adding a fraction of that amount to an appropriations bill to provide critical funding, funding that the President himself pledged to provide in his No Child Left Behind initiative for schoolchildren in poor school districts.

Earlier this week, I offered an amendment to the Labor, Health and Human Services, and Education appropriations bill that would add \$6.1 billion for title I education programs to fully fund the money Congress authorized for fiscal year 2004 in the No Child Left Behind Act. This is money—your money—I like that term "your money." Yes, it is your money that Congress promised to provide. It is your money that our schools desperately need.

Unfortunately, I fear I am fighting an uphill battle to win the passage of my amendment. It is going to take 60 votes on that amendment. I fear I am fighting an uphill battle. Opponents of the amendment have already staked out their positions, complaining that we cannot afford the additional funding, that the amendment will add \$6 billion to the deficit, and that we are already doing plenty for education.

We will never do enough for education. I am not one who believes in throwing money at education. No, not I. I came from a two-room schoolhouse back in the hills of West Virginia. Yes, I know about the Baby Ray Primer. Yes, I studied by the old oil lamp. I memorized my history lessons. I knew about Nathaniel Green, about Hamilton, and Madison. Those were my heroes when I was a boy. I got my heroes out of the history books. The history book that I read was Muzzey. There weren't many pictures in my history book. There was substance there. I memorized my history lesson. That was good for me. We didn't have all the frills and so on that we have today.

So don't count me in to just throw money at education. I don't believe in that. But this is \$6 billion that Congress promised and that the President said he needed. He was for the No Child Left Behind act. Well, let's mean what we say. Let's get behind our words.

I don't believe and I don't buy any of the arguments used against my amendment. I wonder how the Senators who object to the cost of my amendment will view the President's request to add \$60 billion, \$65 billion, or \$70 billion to the deficit to fund military and reconstruction activities in Iraq. I wonder if those same Senators will be comfortable voting to support a massive spending program for Iraq if they cannot bring themselves to support a comparatively meager increase in edu-

cation funding for American schoolchildren.

I intend to speak at greater length on my education amendment at a later time, but I urge my colleagues to begin reflecting on what kind of signal we will be sending to the American families if we shortchange education funding by \$6 billion one day and approve 10 times that amount for Iraq the next.

Make no mistake about it, Congress had little choice but to provide some level of additional funding for military and reconstruction activities in Iraq. Oh, yes, we now want the help of those whom we strong-armed. They were not going to be relevant. They are very relevant today when we need them. We bulldozed our way into that country, into Iraq, almost single-handedly, over the objections of most of the international community. They saw us as a bully. Now we are paying the price for our unmitigated arrogance.

With the exception of the help we have received from the British, we have gotten almost no monetary assistance and precious little military assistance from other nations to assist with our operations in Iraq. It was a war that we should never have fought. The U.N. inspectors were in that country, and they were finding weapons. Weapons were being destroyed. We did not need to send our men to invade another nation that had not attacked us. And all of the claims that this was a nation that posed an imminent danger to our country? How foolish we were to accept that idea.

I said at the time there is no such imminent danger to us. I said it then. So I come with some credibility when I say it today. No, it was not a just war. Think of the boys, think of the men and women who have had to go to Iraq in the hot Sun and sweltering weather and be away from their homes; the Guard men and women and the reservists who have had to go there. Some have perished. Say to their mothers and fathers that it was a just war. Say it to them. No. And they could not even lift a plane against our forces.

Where was the imminent threat to our security? Where are the weapons of mass destruction? We were led down the primrose path by the leadership of this country: Oh, it was an imminent danger. Our security was in danger. It was urgent that we invade another nation that had not invaded ours, that had not attacked our Nation in pursuance of the doctrine of preemption. That got us into Iraq.

I did not fall for that stuff. I did not vote for it and so said at the time that this country was not in imminent danger, that our national security was not being threatened.

Never before had we invaded another country when we had never been attacked. A major war—the American people have had to pay for that, and there are some people in this country who have had to pay it with their sons and daughters and husbands. When are they going to come home?

We have stiff-armed some of our most staunch allies through the years. We gave them backhand slaps. We criticized them because they would not follow us into Iraq because their constituencies did not agree with us. Yet we expected them to follow us. They did not see it as a war in which we were being placed in imminent danger. They did not see it. They did not see it with respect to their own countries. They had to follow their constituencies' feelings, and yet we had a good deal to say about them that today we probably wish we had not said.

The polls released by the Pew Research Center on March 18, the day before the war began, showed that opposition to a war in Iraq was at 69 percent in Germany; 75 percent in France; 86 percent in Turkey; and 87 percent in Russia. And yet the White House scoffed at this opposition and belittled the need to unify the world in confronting Saddam Hussein.

Could it be that we are now paying the price for the administration's bull-headed rush to war without the broad and active support of the international community? We have perhaps a chance to mend the fences and garner more support from the United Nations if the United States can swallow, if this administration can swallow its false pride and come up with a new resolution that cedes a meaningful role in the reconstruction of Iraq to the international community.

Perhaps we also have a chance to attract some serious monetary contributions from the international community, but I doubt we will begin to approach the level of support that we have received from other nations during the first gulf war. Nevertheless, we must keep trying, we must keep returning to the United Nations because that is an important, if not long overdue, first step.

Moreover, Congress and the American people must insist on a full accounting from the administration of the dollars it is requesting for Iraq. The fact that we are faced with staggering demands in Iraq does not mean Congress should feel compelled to hand the administration a blank check and we should not be afraid to ask questions. It is not unpatriotic to ask questions. After all, it is your money out there, as I look into those television lenses.

Lack of careful planning on the part of the administration for postwar Iraq helped to get us into our current difficulties, and we cannot afford to repeat our mistakes. Oh, they were in a hurry. They were impatient. They talk today about the need for patience. The administration was not very patient when it wanted to take this Nation into war.

Just 5 months ago, Congress provided \$78.5 billion in funds—your money—for military and reconstruction activities in Iraq and Afghanistan. Now we are learning that we will need far more money—your money—for Iraq far soon-

er than the administration either anticipated or admitted.

We need to demand the details before we approve any more money for Iraq. We should require the President to submit a detailed budget request for the \$60 billion to \$70 billion he is seeking in supplemental funding for Iraq, and the Appropriations Committees of both Houses should hold hearings on that request.

We could not get straight answers from the administration on the expected cost or duration of the Iraq operation prior to the war. We could not get the information we needed the first time around. We cannot afford to settle for evasions this time around.

The supplemental funding request that the President is expected to send to Congress in the next few weeks gives us an opportunity to get some answers to some of the most pressing questions involving our occupation of Iraq. We had no business getting into that war. We had no business invading another country that had not attacked us. The so-called imminent threat to our security was not there.

What is our postwar strategy for Iraq? What are we doing to improve the security situation in Baghdad and other key cities? What have we accomplished in terms of restoring the electricity, the drinking water, and other basic services to the Iraqi citizens?

What kind of timetable are we facing? Do we have any kind of exit strategy? Who is making the decisions? By far, the greatest monetary cost in Iraq is the cost of the military occupation. Of the \$60 billion to \$70 billion President Bush is expected to request, all but \$10 billion or so is earmarked for the Defense Department. The current cost of military operations in Iraq is \$3.9 billion a month—\$1 billion a week. That is your money.

With massive Federal budget deficits staring us in the face, how long can we sustain that level of spending in Iraq? Do we have any realistic expectation that other countries will help to offset that cost? Even if we manage to get another U.N. resolution, who is going to help us in Iraq, and how will they help us? These are extremely important questions. Somebody ought to be asking them.

The American people are not here to ask them. The young people of this country are not here to ask them. The young people, young high school children and college students who are going to pay the interest on these deficits we are running cannot be here to ask the questions.

We have a duty to ask the questions. These are important questions. Congress and the American people need to know the answers before committing more resources to Iraq. Congress should put the White House on notice now that it will require a full explanation and a rigorous justification of the budget request before voting on it.

The President said several weeks ago major operations in Iraq have ended. Have they?

In the meantime, Congress has other pressing matters on its plate. Next week the Senate will consider whether to fully fund a critical education program for our neediest school children. I was one of those children once upon a time. I was a disadvantaged child. So were just about all of the other children in my mining town. So I try to see myself as one in that class. The bottom rungs on my ladder of life were gone also.

I hope we will treat this issue and my amendment with the same sense of urgency and importance the President expects us to treat the supplemental budget request for Iraq. It is important. We will have to treat that budget request as a matter of urgency. It will face us. But there is no issue more important to the future of our country than the education of our children.

I am reminded of Benjamin Disraeli in the English Parliament who said in 1874: Upon the education of the people of this country, the future of this country depends.

Look it up. 1874. That was the year before my foster father was born. Benjamin Disraeli said in the English Parliament: Upon the education of the people of this country, the future of this country depends.

We can say that here: Upon the education of the people of this country, the future of this country—the USA, God bless America—but upon the education of the people of America, the future of America depends. So there is no issue more important to the future of our country than the education of our children.

I took a piece of plastic clay  
And idly fashioned it one day  
And as my fingers pressed it still  
It moved and yielded to my will.  
I came again when days were past.  
The bit of clay was hard at last.  
The form I gave it, it still bore,  
And I could change that form no more.  
I took a piece of living clay  
And gently formed it day by day.  
And molded it with my power and art  
A young child's soft and yielding heart.  
I came again when years were gone.  
He was a man I looked upon.  
He still that early impress wore,  
And I could change him nevermore.

We have in our hands a piece of clay. On this issue especially I hope the Senate will put aside partisanship and vote to fully fund the No Child Left Behind Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for up to 10 minutes.

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

PRESCRIPTION DRUGS AND MEDICARE

Mr. SESSIONS. Mr. President, at this time the conferees of the Senate and House are meeting with regard to the prescription drug bill and the Medicare reform that is part of that bill. I know the Presiding Officer represents

the State of Texas, and having worked with some of the issues I am going to address, I think no State would benefit more from the reforms I will be talking about than the State of Texas.

What most Americans do not know is when a person goes to a hospital for surgery, for example—and over half the people who go to the hospital for surgeries in America today—their health care is paid for by Medicare, senior citizens on Medicaid, low-income people, is paid for predominantly by the Federal Government. There are formulas that decide how the hospitals and providers get paid for doing the services they provide. The net result, and the way the system is working today, there is a very substantial difference in how much a hospital in Alabama or Texas would get paid compared to a hospital in a State with a high wage index.

Of course, within States there are differences. Even within a State, at hospitals a few miles from one another, one hospital is paid substantially more for a gallbladder operation, for heart surgery, for a mastectomy, or many other surgeries. The system is out of control. It is unjust and it is unfair.

The driving factor behind it is the formula called the wage index. Unfortunately, when determining how much Medicare pays for a hospital to perform a medical procedure, 71.4 percent of that formula is determined by the wage index—how much they say salaries will be in that hospital, in that region. One expert's independent study says the real percentage should be 56 percent. The CMS, the Federal agency that handles this, admits it ought to be 62 percent, not 71 percent, of the allocation of money based on wage index.

This bill fixes that. This bill has the wage index at only 62 percent—not as low as I think it should go—but 62 percent of the formula to determine how much they should be paid. This will narrow the disparity somewhat, not enough, but it is a very significant first step.

Currently, we are rewarding the rich. In this system, the rich are getting richer and the poor are getting poorer. For example, there is a hospital that comes out with the low wage index. They receive less money per surgery than a hospital in a larger city down the road. What do they have to do? They have to cut costs. So maybe they reduce the number of RNs, maybe they reduce the salaries of their hospital workers and nurses, or a number of things to cut costs. What happens then? A year or two later, or the next year, they come in and recalculate wage costs and say: Yours went down; you are getting by with less, so we do not have to give you as much as we gave you last year.

The one who got more money, who was able to raise salaries and pay more, has increased costs. So they come out, in the current formula, showing they need more. The rich are getting richer and the poor are getting

poorer. It is not right. It is a transfer of wealth from poorer areas to wealthy areas of the country. It is too big a gap.

We can do something about it. This fix for which I advocated, and we passed in this Senate, is part of the bill. Likewise, it was made part of the House bill. So both bills are in conference and have fixes for the wage index according to the terms I just mentioned. It needs to be in the final bill. I have to insist it be in the final bill. We have seen in times past bills get manipulated in conference, even when something has passed both Houses and should be in a bill.

I appreciate the chairman of the Senate conference and the chairman of the Senate Finance Committee, Senator CHUCK GRASSLEY. He has stood firm on this issue. He understands the issue. He is not going to accept any erosion of this legislation. He has communicated that clearly to the conferees. There has been some discussion about it. He has communicated very clearly, in my presence, to President Bush, and President Bush agreed with him. This would be in the bill. We are moving forward with the possibility of a significant reform this time.

We need to watch it. There are a lot of competing demands for money. A lot of people in conference may have another priority, but it passed both Houses. Senator GRASSLEY is standing firm, standing like a giant oak tree. I don't believe he is going to be moved. I thank him for his leadership and determination to see this matter to its end and to make at least this significant reform in that legislation. If we do it, we will find these two classes of health care will not be continued in America where rich hospitals and rich centers get more and the rural areas get less.

There are some programs out there for rural hospitals to give them special benefits. But Alabama, like Texas, has a lot of areas that are metropolitan but not high-cost centers, or not perceived to be high-cost centers, centers in cities with 30,000, 40,000, or 50,000 people. They do not get the benefits of rural assistance, nor do they get the benefit of a big city. That factor has been hurting us.

We worked hard on this. We will be watching this legislation very carefully. The fix in it for wage index and rural health care needs to remain in the bill. I thank Senator GRASSLEY for his determination to ensure that it remains in the bill. If the bill is passed as it came out of this Senate, and I hope it will be, we will see some benefit to our hospitals, many of whom are hurting.

In particular, I note Alabama hospitals have the lowest wage index in the Nation. Why, I cannot imagine. For example, the University of Alabama Birmingham University Medical Center is one of the finest medical centers in the world. People come from all over the world to be treated there. They are No. 1 in the world in liver transplants

and No. 3 in kidney transplants. They do some of the top work for the National Institutes of Health. The University of South Alabama in Mobile, likewise, is a first-rate medical school and medical center. Yet somehow this weird formula comes out in our State providing substantially less. It is just not right. Our people pay the same Medicare tax. A Texan pays the same Medicare tax as a person does in New York. But their hospitals do not get paid the same for the surgery.

We need to make some reform. We have an opportunity to make a nice step forward. It is not the end of the road. It is still too much of a gap. If we are lucky and things go as I hope, this bill will come back as it left this body. Then we can know that our hospitals, at least, had one good step forward as a result of Medicare reform and the prescription drug bill.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Rhode Island.

AMENDMENT NO. 1580

Mr. REED. Mr. President, I rise in support of the amendment of Senator HARKIN to preclude and prevent the Bush administration from eliminating overtime pay for millions of hard-working Americans.

We just celebrated Labor Day. As is the custom, the President was out addressing labor in Ohio, talking to working men and women. The reality is that many of those families depend on overtime pay to make ends meet. He did not announce to them that buried in the bowels of the Federal Register is a provision that would severely restrict access to overtime pay for millions of American workers.

He talked about creating a position of economic czar to spur manufacturing, but, frankly, I think if that audience understood that as he spoke he was also proposing and working to deny many of them access to overtime pay, they would have been shocked and amazed—as I am shocked and amazed.

At a time when our economy is searching for ways to rebound from the longest recession we have experienced in many years and from the most severe loss of employment of any administration since Herbert Hoover, the idea that we should prevent people from getting overtime pay seems ludicrous, but that is precisely what the administration is proposing.

Indeed, if the administration were serious about ways in which we could stimulate the economy, one way is to reward the effort of working Americans when they work beyond 40 hours, give them access to traditional overtime pay, and let them go ahead and use

those resources for the family, for investment in America.

Frankly, it is a shock to me that the President is conducting this campaign to surreptitiously and quietly remove overtime protection that has been the law for the country since 1938 which every American takes for granted. In the 1930s, there was a great debate about labor laws, and a compromise was struck. Some industrial nations absolutely have a prohibition on working beyond so many hours a week, and I think rightfully so, but that is too inflexible—but certainly at some level, and the level decided on was 40 hours. After that, it would be appropriate—in fact required—that a worker would be compensated for at least time and half for his wages.

We are here today because Senator HARKIN, I think quite rightly, has proposed that we step to the plate publicly—not surreptitiously—and vote on this measure, vote whether we are going to deny overtime pay to millions of Americans or continue a practice, a tradition, and a law that has served this Nation well for almost 70 years.

About 79 percent of today's workers qualify for overtime pay. It accounts for about 25 percent of their income. Just think, if working Americans—79 percent of them—lost 25 percent of their income or, even a fraction of that, 10 percent of their income. They would be in desperate straits with their mortgage responsibilities, their tuition responsibilities, and their health care responsibilities.

All of us know because we spent the last month back in our home States visiting with families who are working hard. Both spouses are working hard just to make ends meet—not saving up for a fancy vacation or for a fancy anything but just to make sure the bills are paid. As I said, in 1938 we struck a balance. We set a clear line. We said essentially that if you work beyond 40 hours a week, then you get time and a half. It gives families an option. In fact, we all know some families look forward to the opportunity for overtime work because that is what gives them the margin to get by in a very competitive environment, and a very expensive one.

In 1938, the Fair Labor Standards Act recognized that there has to be some flexibility in legislation. It says there are certain white-collar workers who are professionals—highly paid executives, highly compensated workers who do not need the protection because of the nature of the marketplace and who could be exempt from the requirement to pay overtime. They established several salary tests—a “salary-level” test, a “salary-basis” test, and the “duties test.” But essentially, as I view it, it was a narrow exemption. The rule was that if you worked more than 40 hours, you would qualify for overtime pay. But there is a narrow exemption for white-collar duties. Again, because of the nature of the marketplace, these individuals, because of their skills and

because of their abilities, are quite capable of negotiating their own arrangements and their own terms. That was, a reasoned and principled balance. Today, that balance is being upset by the proposal by the Bush administration.

First, let's briefly discuss what the rules are today. If you earn less than \$8,840 per year, you cannot be exempt from the requirement to pay overtime. That is sensible. Of course, \$8,840 a year is trivial in some respects in terms of buying for a family in the United States in the year 2003. The administration recognizes that the proposal is artificially low. They proposed to raise the figure to the total of \$22,100. But they are not going to index this figure. So this figure could be locked in concrete for years. More importantly, even this figure of \$22,100 is basically the poverty level for a family of five. In fact, the Department of Labor's own lower living standard income level—when they do predictions—suggests that a family of four requires about \$31,750 to avoid poverty. Yet we are saying there is a range of people earning \$22,000 and beyond who could lose their overtime pay even though they are desperately close to poverty. It doesn't make any sense to me. I think we should raise the level. We should raise it to a level that is consistent with keeping a family out of poverty before we take away their automatic rights for overtime beyond 40 hours a week.

But the biggest change the administration is proposing is to basically broaden the category dramatically for who is white-collar or executive. What it means is that before we considered a professional—according to the definition, it is someone who has had a prolonged course of intellectual studies: lawyers, doctors, obviously academics, civil engineers with qualifications and certificates. But now the administration wants to go ahead and say, no, this is really just someone who, through experience, has gained the title of “professional.”

This means we are opening up this possibility of losing overtime pay for draftsmen, engineering technicians, paralegals, emergency medical technicians, licensed practical nurses. And I can tell you that licensed practical nurses in a hospital are professionals but they are certainly not paid like a doctor is paid. This rule would put them on that level. She is a professional. I don't think that makes any sense. Lab technicians, dental hygienists, physical therapists, respiratory therapists, lab technicians, and some registered nurses will be denied overtime pay because they are now “professionals.”

There is a broadening of the definition of “executives.” When this legislation was passed almost 60 years ago, those executives had a narrowly construed exemption. They were someone who exercised significant authority over a significant number of people.

Now they are talking about someone in a minimal supervisory responsibility who could be classified as an executive. Some restaurant workers who happen to be the head of a shift of other waiters are now suddenly executives. That is news to a lot of the people I know who work in the hospitality industry. Certainly, they would be executives in terms of base pay. But in terms of overtime pay, they are not.

Again, to me, that is something that strikes against the whole spirit of people working beyond 40 hours a week. They should qualify for overtime with these narrow exemptions. Exceptions now are being broadened beyond that definition. I think this rule, as a result, is very questionable.

The effect may be that families will lose out. The average American working puts in more hours than in any other country in the world—almost 1,900 hours a year. That is how long the average American worker works.

As I said, more and more families rely on not just the income of a primary breadwinner but both spouses are working. We are the hardest working nation in the world. We pat ourselves on the back for our industry, for our dedication, and for our determination. And here the administration is not rewarding that effort but effectively punishing people, saying: Well, you might be compelled to work overtime but you won't be paid for that. That doesn't make any sense.

This has a particular impact on health care workers, I suggest, because it is so easy in that context to talk about supervisory responsibilities and professional qualifications. There is just enough pay so they will go over the threshold. My home State of Rhode Island has 68,000 health care workers. Thousands of them count on overtime pay to just make it through the month. If they lose that pay, they are going to be in a serious predicament, along with their families and our whole economy.

The Department of Labor estimates that the proposal will only affect about 644,000 Americans. Frankly, that is a gross underestimate. Probably millions will be affected by it because of the ambiguity of these new classifications because the incentives, if you will, are for employers to find ways to deny individual workers the right to overtime compensation.

In fact, the Economic Policy Institute studied just 78 of the 257 proposed “white-collar” occupations and estimated that 2.5 million salaried employees would lose their right to overtime if these proposals were adopted. I don't believe we should weaken the exception in this economy.

We have just today seen another report of unemployment. Unemployment is hovering at 6.1 percent at recessionary levels.

In fact, we saw a dramatic fall in payrolls, the number of people actually in nonfarm occupations working. We have seen productivity increases which are good, but they have not been balanced by gains in employment.

Fewer people are working. Since the administration took office, 9 million people have lost their job. Today, in addition to that, we are telling the people who are still hanging on to employment: "Don't count on overtime"? That is not fair and it is not good for our economy.

I would hope we could vote on this amendment and that we could send a very strong message that what has worked for 60 years, what most people believe is deeply ingrained in the fabric of the American market and workplace—the simple notion that if you work more than 40 hours a week you qualify for overtime—can be maintained as it has been. I hope we can do that.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. WYDEN. Mr. President, the Labor-HHS-Education appropriations bill reported by the Senate Appropriations Committee contains \$10 million to fund a small, but important, provision passed in 1996 which would extend the Federal Tort Claims Act coverage to medical volunteers in free clinics in order to expand access to health care services for those who are low income and have few avenues to receive health care. This long overlooked provision is Section 194 of the Health Insurance Portability and Accountability Act of 1996 and is similar to the coverage already offered community health centers.

Congress never appropriated funds for section 194. No administration requested funding and no regulations to implement this section of the law were ever published. Yet, one of the key reasons retired health professionals often do not volunteer is the cost of malpractice insurance. Free clinics simply cannot afford to purchase insurance for them. HIPAA provided a mechanism to solve the problem, yet 7 years after the law's passage, failure to fund this section of law has prevented it from becoming a reality.

Year after year, I, and several colleagues, have urged this and previous administrations to implement this provision. The current administration has been concerned that they would not be able to implement the provision without funding. I thank my colleagues on the committee who have helped make this funding a reality, and I will continue to work with them to assure that the provision stays in through the conference.

Mrs. CLINTON. Mr. President, I rise today in support of the Reid Hispanic educational opportunities amendment.

My Democratic colleagues and I have held roundtables with Hispanic leaders

across the Nation and members of the Congressional Hispanic Caucus that have allowed us to share ideas and develop an agenda that addresses the issues that matter most to the Hispanic community.

We know how important education is to Hispanics and will continue to ensure that it remains a top priority for the Democratic caucus.

Two years ago, Congress and this administration worked together to pass the No Child Left Behind Act to improve the quality of education in America's public schools. We had the commitment from President Bush that additional resources would be provided to help schools implement the changes required.

Today, this administration has broken its promise and has chosen to cut funding for NCLB next year by \$1.2 billion below this year's enacted level of funding. I stand with my colleagues in support of this amendment because we recognize the education of Latino students as a national priority. We are here today to ensure that these resources are restored.

Hispanics are now the largest minority group, as well as the youngest fastest-growing minority group, in the country. Hispanic children make up 17 percent of the total school-age population in the country and recent trends indicate that the number of Latino children attending our Nation's schools is increasing. Despite these changing demographics, Hispanic children remain among the most educationally disadvantaged of all students.

Hispanic children are more likely to attend schools in predominantly low-income areas, they are more likely to be enrolled in segregated schools, less likely to complete high school, and are less likely to be enrolled in and graduate from college than their non-Latino peers.

This amendment will help restore funding for several key programs that have traditionally helped put Hispanic students on par with their more advantaged peers.

This administration has chosen to eliminate dropout prevention at a time when the dropout rate among Hispanics is growing and continues to be higher than that of White or Black students. Nationally, the dropout rate among Hispanics in 2000 was 34 percent up from 22 percent in 1990, and in New York State, the percentage rose to 38.4 percent in 2000. In New York City, 38 percent of all children enrolled in elementary and secondary schools are Hispanic, higher than any other group. These children face many barriers to graduation, yet New York City's dropout prevention grant will be zero funded in this appropriation bill.

School districts in New York and across the Nation already lack the resources, staffing and programs to help new immigrants adapt to U.S. schools and overcome language barriers. Eliminating this funding will just make matters worse. We know that young

adults who do not finish high school are more likely to be unemployed than those who graduate. At a time when our unemployment rate is staggering, we should be doubling the funding for dropout prevention— not eliminating it.

I applaud Senator BINGAMAN for his leadership in making dropout prevention a national priority and look forward to working with him on this issue.

This appropriations bill cuts title III of the NCLB by \$20 million, severely underfunding bilingual education programs and jeopardizing the academic success of hundreds of thousands of English language learners across the nation. New York's schools serve a large and growing number of Latino students and the rate of enrollment for limited English proficient students has grown by 44.3 percent, since 1990. Resources provided under title III of the NCLB help school districts in my State provide English language instruction to over 300,000 limited English proficient children and nearly 120,000 immigrant children.

Since this program was consolidated and turned into a block grant, states like New York have had to reduce their services. This appropriations bill adds insult to injury by forcing cash-strapped schools to serve more students with far fewer resources. Restoring this funding will help States, local schools, and colleges build their capacity to teach limited English proficient students effectively.

The children of migrant farm workers, often called "children of the road," face many obstacles in their lives, including extreme poverty, geographic and cultural isolation, discrimination based on race or ethnic status, language minority status, and, most importantly, mobility.

I am pleased that this amendment restores and increases funding for key migrant education programs that serve this at-risk population, including Head Start for children of migrant and seasonal farm workers. Currently, only 664 of 1,177 eligible migrant children are enrolled in Migrant and Seasonal Head Start centers across New York. This is especially troubling given the fact that migrant children who are not in head start classrooms are either cared for by other younger siblings or are left in the fields.

This amendment will take an additional 150 migrant children in New York out of the fields where they are put at risk of exposure to harmful toxins and pesticides and into quality head start classrooms where they can receive the social, behavioral, and cognitive skills they need to help prepare them for school.

This amendment also restores funding to the High School Equivalency Program, HEP, and College Assistance Migrant Program, CAMP. The HEP and CAMP programs are both very important to New York as well as other States in the Northeast. The HEP program helps migrant students who have

dropped out of high school get their GED, and CAMP assists migrant students in their first year of college with both counseling and stipends.

The children of migrant farm workers face the highest dropout rate among all other Hispanic American ethnic groups. Current estimates place the dropout rate for migrant at between 50 and 60 percent. Before the Federal Government created CAMP programs, there was no record of a migrant child having completed college. With HEP and CAMP these students are making amazing progress. At the State University of New York at Oneonta, both programs serve students from migrant and seasonal farm working families from New York, Maine, Pennsylvania and Connecticut. This year, Luis, a New Yorker and former HEP and CAMP student will be entering as a sophomore at SUNY-Oneonta. Luis' experience as a migrant youth is shared by countless other children of migrant and seasonal farm workers.

For many migrant children, moving from state to state can take its toll. For Luis, it resulted in a pattern of repeating grades until he quit school to work with his father in the vineyards in Western New York. A year later, he learned about High School Equivalency Program, HEP. With the assistance of the HEP program, he earned his GED, applied to college, and was accepted to SUNY last year as biology major. As a CAMP student, Luis received vital academic, social, and financial support during his first year of college, the most critical year for most first-generation college students.

Luis now mentors other CAMP students, is a member of the Migrant AmeriCorps program and has maintained a cumulative GPA of 3.04. Securing additional resources for HEP and CAMP will help ensure the dreams of students like Luis become reality. I also support increasing funding for Hispanic Serving Institutions, HSIs.

For New York this increase will help 12 colleges and universities expand their capacity to serve a large and growing number of Hispanic students. By supporting these institutions we are recognizing the large contribution they make to increasing access to higher education for traditionally underserved communities, and are making the dream of college a reality for many more Hispanics. The condition of America's future will depend upon how well we meet the demand for an educated workforce.

Cuts in education programs might help balance the books in the short-term, but it is a bad idea for our economy in the long-term. We need a highly skilled workforce to compete in this global economy and investing in the education and training of our Hispanic population will help our Nation meet this challenge.

I therefore urge my colleagues to support this amendment.

#### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask that we now be in a period of morning business.

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

#### DC SCHOOLS

Mr. FRIST. Mr. President, yesterday the Senate Appropriations Committee passed legislation that has real promise, and that promise goes to the heart of offering the schoolchildren of this city, the District of Columbia, a genuine, a real opportunity to achieve an education. Specifically, I am talking about the DC Choice Program, a program my colleague from New Hampshire, Senator JUDD GREGG, has worked so very hard on over the past several months; an issue that other colleagues, especially MIKE DEWINE, the Senator from Ohio, has been so committed to; an issue that colleagues from the other side of the aisle, Senator FEINSTEIN and Senator BYRD, are both committed to. Indeed, both showed, I believe, bold and courageous action on behalf of the Capital City's schoolchildren.

The District of Columbia appropriations bill provides \$40 million for public schools here in the Capital City. That money will be divided between public charter schools and a new private school tuition program that would offer up to \$7,500 per student for about 2,000 additional students.

Regrettably, some of my colleagues on the other side of the aisle supported doing nothing, supported the status quo. They refuse to allow 2,000 of the District's schoolchildren who are from hard-working, low-income families to have that opportunity of earning a better education. They would rather trap these children in failing schools. They would rather tolerate failure than take a chance at success.

The record of the District's public schools is shocking. Despite unprecedented Federal and local spending in the District totaling about \$12,000 per student, the District's scores are the lowest in the Nation. Only 10 percent of the District's fourth graders are proficient at reading. Fewer than 12 percent of District fourth graders can write at grade level. Only 6 percent of District fourth graders can do math at a proficient level.

This is a disgrace. DC's public schools are graduating children who cannot read, who cannot write, who cannot add, and who cannot subtract. Would any of us in this Chamber allow our children to be illiterate and unable to do simple fourth grade math problems? The answer is obvious.

In fact, many of those who oppose Choice for the Capital's schoolchildren send their own children to private schools where their children are able to read great literature, learn calculus, learn physics, and dream about careers in anthropology, or careers in aeronautics, and, indeed, go on to competitive colleges and universities.

Unlike some of my colleagues here on the Hill, the locally elected officials from the District itself want the very same for the District's school age kids. They are determined that the District schoolchildren will learn to read and to write and thereby share in that American dream. The city's Mayor, Anthony Williams, understands that. The DC Board of Education president, Peggy Cooper Cafritz, and city council member Kevin P. Chavous are all courageously advancing the cause of universal education for kids here in the District of Columbia. They understand it. Most importantly, the people who understand it and who are leading the fight are the parents of the kids here in the District.

Across the city, parents are lining up in order to obtain better options and better alternatives for their children. The need is so intense that the District Public School Choice Programs are now way oversubscribed. Each year, more than 1,000 schoolchildren are "wait-listed" for the city's magnet programs. Charter schools educate right around 15 percent of DC kids, with nearly 11,500 children in attendance and another 1,000 on waiting lists to get into these charter schools.

When John Walton and Ted Forstmann invested \$2 million in the Children's Scholarship Fund here in the District, more than 10,000 families applied for about 1,000 seats.

Virginia Walden-Ford, the executive director of DC Parents for School Choice and a mother of three, knows first hand how desperately parents want a better education for their children. She tells me that each week she receives in her organization hundreds of calls just about this issue of having a better choice, a better alternative. She knows first hand the desperation of these parents.

Virginia had to take matters into her own hands when her son was having trouble in school. He was skipping school. He was having run-ins with the law. He felt like no one cared. He also felt peer pressure to not work hard, to not achieve, to not aspire. Virginia, as a parent, was terrified. We all would feel this way. She was terrified of what would happen if her son stayed in that environment—if he stayed or was trapped along this path that would lead to nowhere. So she decided as a parent to make a difference and to make a change. She sent him to a private school. And within 2 weeks she tells me her son, who she was so worried about being trapped in this environment in which there was no escape whatsoever and no opportunity to achieve that American dream, was transformed—no more getting into trouble, no more skipping school, no more getting into trouble with the police, no more skipped homework assignments. Virginia asked him why. What made that difference? What led to that transformation?

Her son told her very directly that the teachers for the first time cared