

while the trial lawyers were awarded almost \$4 million.

Let me conclude by making a point that part of the confusion is due to objections by the AFL-CIO. Even before the final rule was made public, they were criticizing it, producing TV advertisements, misrepresenting the effect of the new rule. This is especially distressing given the fact—I know this personally from the Secretary of Labor, who had spent untold numbers of hours working on this—it was their intention to try to take in all of the criticisms and comments and blend them into a rule that made sense for workers. She did this, and then to have it attacked before it is finalized, with misrepresentations, is very unfair.

Prior to drafting a rule, the Department of Labor held over 40 stakeholder meetings with 50 different interested groups, including 16 different unions, and invited 80 groups to participate in these so-called stakeholder meetings. It was not as if this were done without the input of people clearly interested in it.

The amendment that is in order when we take up the bill is the Harkin amendment. It is unclear precisely what the wording of the amendment will be, but obviously the intent is to preclude the regulations from fully taking effect.

I urge my colleagues, after they review that language, to quickly dispose of the amendment so we can move on to the important business of passing the underlying JOBS bill. As we know, the only group of employees that is not going to be guaranteed overtime under the new regulations is those making over \$100,000 or more. The theory there is they are in a position to negotiate their own salary.

Just to conclude, if this new rule is not allowed to go into effect, the biggest winners under the new rule, which are the low-income workers, will be the biggest losers. We need to put this into effect, clear up the confusion, and create the specific categories that are guaranteed overtime pay or these people are going to lose. The police, the firefighters, the lower income people, the blue collar workers are not going to be assured overtime pay. Remember, it only previously would guarantee anybody with \$8,000 or less the overtime pay they should be entitled to.

The effect of the Harkin amendment will be to hurt workers, not to help them. It is my hope that, again, we can quickly dispense with the Harkin amendment, defeat that amendment, support the regulations, the new rules that have been adopted by the Department of Labor, let them go into effect, and see how they work; in the meantime, move on with S. 1637, the underlying legislation, the purpose of which is to finally get our manufacturing industry back on even par with our competitors, particularly in the European market. That is legislation we have to pass because of the tariffs that are being imposed each month until we comply with the ruling of the WTO.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent I be allowed to speak for 15 minutes, and I include in that request Senator REID of Nevada who has asked to follow me for an additional 15 minutes.

Mr. KYL. Mr. President, reserving the right to object, there is a division of time between the two sides. Could I suggest that regarding the remarks of the Senator from Florida with the Senator from Nevada, that they get together and figure out the time to speak if it will not be under leader time? Is that acceptable?

I will object to the request and try to talk to the Senator.

The ACTING PRESIDENT pro tempore. The objection is heard.

The Senator from Florida.

Mr. NELSON of Florida. Is the unanimous consent request that I made that I be allowed to speak for 15 minutes, is that acceptable?

The ACTING PRESIDENT pro tempore. It has been objected to.

Mr. NELSON of Florida. I ask unanimous consent that I be allowed to speak for 15 minutes, and if there is a Member on the other side of the aisle who would like to speak for 15 minutes, that they be allowed to do so, as well.

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

#### THE POLARIZED SENATE

Mr. NELSON of Florida. Mr. President, that is an interesting segue into what I wanted to talk about, the polarized nature today of the Senate.

At times, this Senate has become so partisan, and increasingly so now, that it is in gridlock. There seems to be a playing out of "gotcha" politics that has poisoned the atmosphere in Washington, DC, so that it is hard to get the people's business done.

When I had the privilege of coming 4 years ago to the Senate, I had read the histories of the great leaders of this body and the extraordinary consensus and bipartisanship, that they would reach out and bring people together in order to form a consensus that could help the Nation govern itself. We find we have exactly the opposite happening in the Senate.

At the same time, what we find happening—under the Constitution, the separation of powers are a check and a balance against each other. That is beginning to erode. Instead, what we see is the power, instead of being equally divided and balanced between the judicial, the legislative, and the executive branches, we find in the executive branch almost an attitude that the legislative branch should become an appendage of what the executive branch wants. If that trend continues, the Constitution is not going to work as it was intended to work.

We find in the histories of this great body, when we have read about those

great leaders, even within our lifetime—Everett Dirksen, Lyndon Johnson, Mike Mansfield, and Bob Dole—they reached out and built bipartisan consensus. They were partisan when they needed to be, and yet they knew the way this body operates. One cannot break a filibuster except by 60 votes now; it used to be two-thirds. We have to build consensus, and we have to build it from the political center by reaching out and bringing people together.

The sharpness of this poisoned atmosphere of excessive partisanship and excessive ideological rigidity has made it very difficult for this Government to function. As a matter of fact, we read the articles recently in major periodicals where it seems ideology is lining up in one party or another, almost as if that is the decision point, the choice, for America to make.

But America has always yearned for another way and that was using the best of our democratic principles through the cross currents of ideas, through the intercourse of discussion, through the heat of debate, for ideas and consensus to emerge upon which to govern this wonderful, broad, beautiful, powerful, and very diverse country. Until we do that, we are going to continue to have a problem of gridlock.

There is something I can do about it by the way I conduct myself individually, day in and day out—when I make mistakes, own up to those mistakes and apologize to the people who would be offended by those mistakes in the interest of comity and consensus building. That is how this Senator has tried to conduct himself, failed as I may be.

That is how I will try to continue to conduct myself and hope I am joined by other Senators in that—through the way you conduct yourself, reaching out in the spirit of comity and personal friendship, and with a sight set on what is good for the Nation. Partisanship prevents us from building consensus in order to run this wonderful country we are privileged to serve and represent.

Mr. President, that is what has been on my heart.

#### THE GAO MISSILE DEFENSE REPORT

Mr. NELSON of Florida. Mr. President, I came to the floor to discuss a topic we will be taking up in the Senate Armed Services Committee later this week as we start to grapple with the authorization bill for the Defense Department—the question of missile defense.

This topic is timely for a number of reasons. First of all, the administration plans to deploy a "rudimentary" missile defense system this September, despite the fact it has not been proven to work. The Armed Services Committee begins consideration of this DOD fiscal year 2005 budget request, and the Pentagon has requested \$10 billion for missile defense systems in 2005,