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Senate

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.
Sovereign Master of the universe, Your kingdom cannot be shaken, for You are King of Kings and Lord of Lords. We praise You that more things are wrought by prayer than this world can imagine. Thank You for inviting us to ask and receive, to seek and find, and to knock for doors to open.

Forgive us when we have forfeited Your blessings because of our failure to ask. Forgive us also when we have lacked the humility to turn from evil and seek Your paths. Remind us that righteousness exalts a nation, but sin is an equal-opportunity destroyer. Remind us also that earnest prayer unleashes Your power.

May this prayer that opens today's session be a springboard for intercession throughout this day. Help our lawmakers to pause repeatedly during their challenging work to ask You for wisdom and guidance. Empower the members of their staffs and all who labor for liberty to harness prayer power continuously.

Do for this great Nation immeasurably more than we can ask or think, for the kingdom, the power, and the glory belong to You alone. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. McCONNELL. Mr. President, this morning the Senate will begin a period of morning business for up to 1 hour. The first half of that time will be under the control of the majority leader or his designee, and the second half will be used by the other side of the aisle.

Following morning business, the Senate will resume consideration of S. 1637, the FSC/ETI JOBS bill. The debate until 12:30 will be equally divided between Senators GRASSLEY and BAUCUS or their designees.

During yesterday's session, three amendments were offered and debated. I thank Members for coming forward on Monday and allowing us to make some progress on the bill. This morning we expect a Republican alternative to the overtime amendment to be offered, and Members may have additional debate on that issue. Therefore, we anticipate that we will begin to schedule votes on FSC amendments this afternoon and, therefore, we do not expect any votes prior to the policy luncheons.

As a reminder, the Senate will recess from 12:30 to 2:15 for the weekly policy luncheons.

Finally, we hope to have cooperation on both sides as we try to finish the JOBS bill this week. With the rising level of WTO sanctions, it is long past time to complete this measure and, therefore, Members need to show restraint in offering their amendments. I thank everyone in advance for their cooperation as we try to finish this bill this week.

I reserve the remainder of the leader time.

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

RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

FINISHING FSC/ETI

Mr. DASCHLE. Mr. President, I share the view just expressed by the distinguished assistant Republican leader with regard to finishing the FSC bill. It is my understanding they have probably twice as many amendments as we do. I know both sides are attempting to work down the list.

We have had some success in the last 48 hours with regard to our list, and we are hopeful our colleagues on the other side of the aisle will have an equal opportunity to demonstrate their success in reducing the number of amendments to be offered. We can finish this bill easily this week.

Our amendments have all been vetted, and it is my understanding that every author of each amendment on our side has also agreed to a time limit. So we not only have short time limits and a reduced number of amendments from what was originally entered into with the time agreements and the unanimous consent agreement having to do with the consideration of this bill, but I think if we can continue to show that degree of cooperation, certainly we can finish the bill easily this week and perhaps move on to other business.

So I join with the Senator from Kentucky in expressing the hope we will continue to work to accomplish that this week.

TORTURE IN IRAQ

Mr. DASCHLE. Mr. President, I had not intended to speak to the appalling news in the last several days about the mistreatment of prisoners in Iraq. But I must say I come to the floor with grave concerns about the news, about the events, about the message it sends, about the extraordinary impact this violation of human rights can have on our efforts to succeed in that country, and about our appalling inability to explain how this happened.

While I certainly am not in a position today to speak with any clarity or

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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definitive character with regard to the facts, let me say that I don't know that there has ever been a time when we needed a better understanding of how this could have happened, why it happened, how widespread these practices may have been, what the administration has done about it, what they intend to do about it, why the President was not informed, why the Defense Secretary was not informed until just recently, why no one has seen the report, why the Intelligence Committees were not informed, and why, in other words, has there been this extraordinary disconnect, this unbelievable failure of communication and of oversight.

We need answers. I hope no later than the end of this week the Secretary of Defense can come to the Senate, as he does with some regularity, and explain to us what they know, what happened, and what is going to be done about it.

We must do everything we can to ensure that we understand the circumstances surrounding these appalling acts. We must also be provided with a very specific and detailed response that spells out the measures taken to discipline those responsible and outlines what steps will be taken to ensure this never happens again.

Somehow, we have to say to the international community that this is not the United States of America. I think it is imperative that the Senate itself speak to this issue in some manner. We should send a clear signal through a resolution or some other collective and forceful means that expresses how important it is to adhere to the international standards respecting the human rights of every person.

We cannot be silent. We must learn, respond, and speak out. I hope all that will be done at the earliest possible time.

FIRST DAY OF MEDICARE DRUG CARD ENROLLMENT

Mr. DASCHLE. Mr. President, I want to use the remainder of my leader time to comment on the Medicare temporary drug discount card.

For nearly a decade, Congress has been debating how to provide seniors with meaningful help when it comes to the skyrocketing cost of prescription drugs.

This temporary program represents the first tangible result of that long debate. Until the Medicare prescription drug benefit takes effect in 2006, this is the only assistance seniors will receive.

The administration has introduced this program with great fanfare. Unfortunately, the hype masks the disappointing truth. This program provides far more confusion than real savings. As a result, it represents yet another missed opportunity in our longstanding effort to bring the cost of medicine within the reach of seniors who need it.

Among the many shortcomings in the program are three critical flaws.

First, the discount program forces seniors to go through a baffling number of calculations and decisions.

In order to decide whether the discount program is right for them and, if so, which card to choose, seniors need to ask themselves: First, will the card offer discounts on the drugs I need? Second, is my neighborhood among those where this card is available? Third, does my pharmacist accept the card? Fourth, which of the several cards offered will provide the best discount on the drugs I am personally taking? Are the discounts offered worth the enrollment fee? Could I get a better deal through a separate discount plan offered outside of Medicare? Will I qualify if I am in Medicaid?

The questions go on and on and on. The dizzying array of possibilities and permutations are shown in a number of the pieces of material that have been offered by CMS. I must say the charts and information provided are equally as confusing.

One reason it is so confusing today is that seniors have nowhere to turn for reliable information. The Center for Medicare and Medicaid Services has built a Web site, but it has already been found to have incorrect prices on many of the drugs Medicare recipients rely upon the most.

Unless seniors have faith in the information on which they are basing their decisions, the fact they are given options will mean absolutely nothing.

Second, the program unfairly locks seniors into their choices until the end of the year, even though the card sponsors can change the rules anytime they wish.

Assuming that a Medicare recipient is able to get the information he or she needs to make a smart choice on a plan that could help, it may not matter. At any time, card sponsors can withdraw the discount they were offering on any drug. Meanwhile, even though the rules could change at any minute, Medicare recipients are actually locked into the choice they made until the next enrollment period comes. So they make their decision based on facts provided to them, and they are locked into that decision for the coming year. But those facts can change at any time—the day after, for example—and the Medicare recipient is now committed. Those facts for that recipient could change. This is an extraordinary invitation for abuse. It puts seniors, especially those with serious health conditions, in a very vulnerable position.

Last week, the Secretary of Health and Human Services suggested that seniors wait before enrolling because more information will soon be available.

Because enrollment begins today and the administration has not included this warning in its widespread advertising, I have urged Secretary Thompson to allow Medicare recipients at least a 30-day grace period to enable them to change their decisions should it turn out that another plan could offer a better discount.

In the wake of the confusing and contradicting information seniors are receiving about these cards, the very least HHS can do is to offer them the flexibility to make the right choice once the right information becomes available.

Finally, and most importantly, the program simply doesn't provide much of a discount. A recent analysis found that prices under the new drug cards would be no lower than prices currently available to Medicare beneficiaries.

Furthermore, whatever discounts the cards may provide have already been factored into drug company pricing strategies.

The Wall Street Journal recently reported that several of the drugs seniors use the most have actually seen prices increase more than three times the rate of inflation since this program was announced.

In fact, drugmakers have already raised prices so much that the so-called discounts offered by this program will do little more than return the drugs to their original price.

To add insult to injury, the new law only requires the card sponsors to pass along to beneficiaries a share of the discount that they do negotiate.

That is not good enough, so I have introduced legislation that would require them to pass along at least 90 percent of the savings to seniors. Medicare should not be in the business of propping up profits at the expense of seniors.

After wading through the stupefying process, with its myriad questions and calculations, the fact of the matter is many seniors will not see their drug costs go down 1 penny.

Regrettably, this was entirely predictable. Instead of relying on commonsense solutions we know could bring down the cost of drugs for every senior, Congress created a mystifying maze of computations, replete with new vendors, changing rules, shifting prices, and unreliable information. There is a better way.

Not long ago, I was contacted by a couple from Trent, SD, who, until January, spent \$525 every month to pay for 17 different pills the wife had to take for her diabetes and high blood pressure.

As the cost of the drugs rose higher and higher, it became more difficult to pay their monthly bills, much less enjoy the retirement they worked and saved for. So in order to make ends meet, the husband, at the age of 84—at the age of 84—started a paper route. Once a week, he spent a day delivering a weekly magazine to a number of small towns around Trent. He does not make much, certainly not enough to cover the cost of his wife's prescription drugs, but the added income relieved a little of the sting, and most of the urgent bills could be paid.

In January, the couple called a pharmacy in Canada. They had heard drugs cost less on the other side of the border, and he was curious if they could save a little money.

What they learned stunned them. The same drugs that cost \$525 per month at their local pharmacy cost less than \$100 in Canada. Over the course of the year, the couple will save over \$5,000.

This couple's experience points the way to two commonsense steps Congress could take to guarantee lower drug prices for all Americans.

First, we must make it possible to safely and legally reimport drugs from countries with lower drug prices. Pharmaceutical companies charge American consumers the highest prices in the world. Some medicines cost American patients five times more than they cost patients in other countries.

In effect, our citizens are charged a tax simply for being American. As a result, millions of Americans are having trouble affording lifesaving medication.

Last month, Senators reached a bipartisan agreement to introduce a bill that would allow reimportation of prescription drugs. I want to thank Senators DORGAN and MCCAIN for their extraordinary leadership, and also those who joined with us—Senators SNOWE, KENNEDY, and LOTT, and others on both sides of the aisle.

This is the same medication, manufactured at the same facilities, and inspected by the same rigorous safety standards. It is absurd, even cruel, to force Americans to pay wildly inflated costs, driving hundreds of thousands of Americans into poverty, just to pad the profits of pharmaceutical companies.

Second, it is time to give the Government the same negotiating leverage it has on every other product it buys. When the Government buys computers or automobiles or equipment for our soldiers in uniform, it uses its purchasing power to get the taxpayer a better deal. We should have the same ability to negotiate for drugs on behalf of 41 million Medicare beneficiaries.

The administration has repeatedly opposed this commonsense price-reducing measure and insisted on a provision in the Medicare law that expressly prohibits the Federal Government from using leverage to bargain for lower drug prices.

Let's be clear, if we have the power to save taxpayers money and choose not to use it, we are, in effect, throwing taxpayers' money away. This is foolish and irresponsible. It helps no one but the drug companies who can count on their bloated profits. By defending the system, the administration is merely showing whose side they are truly on.

America's seniors deserve better. The question isn't how we bring down drug costs for seniors. We know how. Rather the question we face is whether we truly want to bring down costs for seniors. The administration and many of our Republican colleagues have given their answer. Over the next several months, seniors are going to see this drug card program is not up to the task of controlling the spiraling drug costs.

Instead of helping seniors afford the drugs they need, it is designed to help drug companies reap the profits to which they are accustomed. Seniors need a real Medicare prescription drug benefit that puts their needs first.

We are going to try to continue to work across the aisle, as we did with the reimportation bill, to find a way to bring down these costs, to find a way to empower the Government to work on behalf of all seniors to negotiate better prices.

There is an answer to the high cost of prescription drugs. The program being introduced today and unveiled this week is not it. We can do better than this, and I hope we will.

I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee, and the second 30 minutes under the control of the Democratic leader or his designee.

The Senator from North Carolina.

OVERTIME RULES

Mrs. DOLE. Mr. President, this morning I want to praise the work of Elaine Chao and her staff on the final regulations to strengthen overtime rules for all Americans. Elaine Chao worked with me when I served as Secretary of Transportation, and I know her to be a public servant of the highest intelligence and integrity.

Secretary Chao has identified the problems with outdated regulations and has taken the action necessary to rectify them. I admire her principled stand on such a controversial issue, and I commend her for her foresight in recognizing and working to fix the problems.

The Fair Labor Standards Act regulations have not been revised since 1954, but labor forces, as well as employers, have changed dramatically over that 50-year period. These updates take into account the economic demands of technological advancements, salary growths, and shifts in the labor force that have occurred in the past half century, and they modernize these regulations for a modern workforce.

Updating the rules is crucial to the 6.7 million Americans making \$23,660 or less a year because until now only workers earning less than \$8,060 annually were guaranteed overtime. The final rule provides a greatly needed increase, and, in addition, 1.3 million white-collar workers will benefit from their new earnings. The benefits do not stop there. More than 5 million workers will enjoy an ironclad guarantee of overtime rights, regardless of job duties, under this final rule.

As a woman well acquainted with labor issues across this Nation, I have

watched the increase of Fair Labor Standards Act class action suits over the years with growing concern. To my dismay, the number of suits has almost tripled—triple—since 1997. Even worse, these lawsuits are estimated to cost our economy approximately \$2 billion a year. The vague language in the laws has allowed an opportunity for class action attorneys to render a defense extremely expensive and difficult to counter, regardless of how well the employer complies with the law.

These suits have placed even greater pressure on our already overburdened judicial system, and they reinforce the need for these rules.

Certain groups out to prevent the Department of Labor from improving the rules and making the necessary clarifications have greatly exaggerated the effects of the rule. Fortunately, their efforts were unsuccessful.

Critics expressed concern about who is and who is not potentially affected by the new rules—why, for instance, a first responder's overtime is protected. There is no question that America has a profound sense of the significance of our first responders, especially following the events of 9/11. This new protection extends to all of our first responders, our police officers, firefighters, paramedics, nurses, and emergency medical technicians.

For those who feared team leaders could be unfairly disadvantaged under the proposed rules, let me assure you the final rules make it clear blue-collar workers who are team leaders are guaranteed overtime pay. Additionally, white-collar team leaders will enjoy greater protections than they do today.

I hope my colleagues on both sides of the aisle will give careful consideration to the clear benefits these final rules will afford our Nation before voting. I believe these final rules are the product of constructive feedback that is afforded to all proposed rules through the public comment period. In this case, I am told 75,000 to 80,000 comments were received and analyzed. With the new rules in place, workers will clearly know their rights and employers their responsibilities.

Again, I thank Secretary Chao for her extraordinary leadership and vision in making millions of low-income workers eligible for overtime, updating the antiquated and confusing rules and regulations, and taking this important step toward eliminating the billions of dollars in lawsuits related to overtime cases.

I quote from today's Washington Post:

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

I urge all my colleagues to support this rule and vote no on the Harkin amendment.

I yield the floor.

The PRESIDING OFFICER. The minority whip.

ORDER OF PROCEDURE

Mr. REID. I appreciate my friend from Minnesota yielding for a unanimous consent request.

Under the time controlled by the Democrats, Senator STABENOW would have the first 10 minutes, Senator DURBIN the second 10 minutes, and Senator LAUTENBERG the third 10 minutes, or if one of them is not here they would each get 10 minutes of our time. I ask unanimous consent that that be the order for the Democrats.

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

The Senator from Minnesota.

MEDICARE'S NEW PRESCRIPTION DRUG PROGRAM

Mr. COLEMAN. Mr. President, I had the opportunity yesterday to be in Eden Prairie, MN, at a senior citizens center to talk to people gathered there about the opportunity they now have to obtain a discount card to lower the cost of prescription drugs. This is done less than 6 months after the law was changed. I want to applaud Secretary Thompson and the folks from CMS for moving so quickly.

What I find so troubling is I was on the Senate floor yesterday and I heard the distinguished Senator from Massachusetts and today the distinguished minority leader talking about how terrible this is and lambasting something that is just beginning. I ask that we put aside the partisan rhetoric and see if we can work together to give seniors an opportunity to get prescription drugs at lower costs. The card in question is one, by the way, if one is a senior at the lower end of the economic ladder and as an individual they have an income of under \$13,000—I think it is about \$12,500 for an individual and about \$16,500 for a couple—that discount card has contained within it a \$600 credit. That \$600 credit will cover the cost of prescription drugs from now until the end of the year and then \$600 starting again in January; so, in fact, it is \$1,200 for 18 months. With this card, seniors have an opportunity to get a list of the pharmacies at which they shop, get a list of the drugs they need, and then be able to price compare.

I am not very computer literate, but many of us have complained about the complexity of the Medicare law. There is certainly a lot of debate about the complexity of the statute, but there is very little debate about the simplicity of the process that is involved in seniors figuring out what their options are under this card. If seniors call 1-800-MEDICARE, they can speak with someone, tell the folks at Medicare where they live, what their income is, what drugs they need. They will be given a list with a whole range of opportunities, and then they can pick the program that is at the lowest cost to them.

If a senior is computer literate themselves or they have a kid or even a

grandkid who understands how to work computers, or in our case we had folks from AARP and from the Board of Aging—they were all there to work with these seniors—it makes it very simple.

For those who talked about mystifying phases of confusion, why do we not just give it a chance to work. Can we not put aside partisan rhetoric and lambasting for a little bit of time and simply come together to say seniors deserve lower cost prescription drugs?

I would like to see an opportunity for seniors to get safe drugs from anywhere, and if we can figure out a way to do a pilot project to get drugs from Canada, I would support that. We know that is not the panacea, that is not the cure all. We have passed a bill now that for the first time gives seniors the opportunity to get prescription drug coverage. Over 187,000 in Minnesota will get that coverage, and over 119,000 will have this \$600 benefit.

I was taken aback by the comments of the Democratic leader when he talked about the Federal Government as a model in regard to military procurement and getting things at low cost. Goodness gracious, we have all heard the stories of \$500 wrenches and toilets. There is a better way to do it.

We have an opportunity now for seniors to be able to price shop. We have urged our seniors and I urge seniors, do not get the card right away, do not make their choice right away. Window shop for a couple of weeks, 10 days, figure out what is the lowest cost, and do the price comparison.

We have an opportunity, and I hope we take it, to put aside the political hits and being negative about things even before the program is given a chance to work.

ECONOMIC RECOVERY

Mr. COLEMAN. I do want to talk briefly about the economy and perhaps from the same perspective. I begin my remarks on the progress of the American economy with an observation of H.L. Mencken in 1921. He said:

The whole aim of practical politics is to keep the populace alarmed (and hence clamorous to be led safely) by menacing it with an endless series of hobgoblins, all of them imaginary.

Much of the economic commentary we are hearing from the other side of the aisle in the Senate and out on the campaign trail seems to fit this description very well.

Among the hobgoblins: that the President is encouraging companies to move overseas; that his tax cuts are intended to primarily help his rich friends; and that this is the worst economy in who knows how long.

There is just one problem with these and other claims: The facts. They are alarming for sure, but they are also imaginary.

The economy is strong and growing, posing annual growth rates of 8.2 percent, 4.1 percent, and 4.2 percent in the

last three-quarters. Jobs are being created, 308,000 last month. The recalculation of job creation the first 2 months in this year is another 200,000. I believe the figure is 750,000 in the last 7 months. Housing sales are at an all-time high level, and so is home ownership. Inflation is low. Mortgage rates continue to be low. I wonder which of these economic indicators the Senator from Massachusetts wants to be less positive.

The truth is, we should not be comparing our economy to perfection and asking: Why not? We should be comparing our economy to reality and asking: Why?

We had the tech bubble burst, a bubble that should never have been allowed to inflate so high. We had corporate scandals. We had corporate greed. We had Enron and WorldCom. They were certainly nonpartisan, but they were encouraged by the get rich quick ethic of the 1990s. They were reprehensible and we have dealt with them.

We had the attacks on September 11. My colleagues across the aisle talk about losing jobs and what a terrible economy. Every single time we have to reflect, we remember September 11 and the devastating impact that had both on our hearts, on our souls, on our confidence, and on our economy. Now we have the daily war on terror.

If that picture had been drawn for us 5 years ago, how many would have predicted the economy would be in as good shape as it is? The reason is sound monetary policy and tax cuts that were extremely well timed and sized to stimulate the economy when it needed it the most.

Talk to small business folks. They understand the importance of bonus depreciation, increased expensing, cutting the top bracket, reinvesting in the business, and then growing jobs. That is what has happened.

As that stimulus is running its course, we in this body need to enact a jobs bill, a transportation bill, and the Energy bill. We need to enact tort reform to build upon our current progress. We have to stop the filibustering and get some work done.

Unfortunately, some in this body and on the campaign trail are obsessed with talking about and addressing the economic situation that existed 2 years ago and administering medicine to a disease we are already curing. The President deserves credit for economic policies that weathered America through to better times.

Some may have political reasons for keeping the people alarmed, but the mounting evidence of economic strength is convincing to the American people, and the American people understand that reality is preferable to all those hobgoblins.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Utah.

Mr. BENNETT. Mr. President, I thank my colleague for his presentation on the economy. I intend to continue in the same vein.

I begin with a headline that appears in this morning's Washington Post on the front page of the business section. I believe it belongs on the front page, period. The headline reads:

Federal Deficit Likely to Narrow By \$100 Billion. Tax Receipts Pare Borrowing.

It goes on to describe how the amount of tax receipts coming into the Government are so much higher than those anticipated, that the present expectation is that this year's deficit will be \$100 billion less than the amount that we were told when the year began.

To me, that does not come as a surprise. Yes, I am a little surprised that the number is as high as it is. But the one thing I have said over and over again on this floor, and will continue to say because it seems nobody understands it, is that all of the numbers we have with respect to our projections around here are always wrong. I can't tell you whether they are wrong on the high side or the low side in advance, but the one thing I can always say with absolute certainty is that they are wrong.

Why? Because we are talking about an \$11 trillion economy. In an \$11 trillion economy, even the slightest percentage change in our estimate produces a big number, in terms of dollars. One hundred billion is not that much money when you talk about \$11 trillion. It is 1 percent. And 1 percent, to use a term with which all politicians are familiar, is within the margin of error.

But the fundamental truth that comes out of this headline and the predictions that preceded it is this: Worry less about the numbers than you do about the principal position of the economy that underlies those numbers. If our policy is correct and the economy is thriving and growing, the numbers will take care of themselves. But if our policy is wrong and the economy is shrinking, then it doesn't matter what the projections say that the income of the Federal Government might be. We are going to be in trouble.

I want to put this all in historical perspective so, if you will, I will display a few charts. This first one, "Historical Perspective on Economic Growth" goes back to the 1970s. The green bars above the line represent quarters in which our economy grew. The red bars below the line represent quarters in which our economy shrank. As you can see, we had a very serious economic problem in the late 1970s and early 1980s, as the red bars went down below the line repeatedly and very deeply. This was the response to what some economists call the "great inflation." We hear talk about the Great Depression, but we sometimes forget that in the 1970s we had the great inflation during the Carter years. And we had two quarters successive of red down below. Then it burst, and then an additional problem, as the economy went through the dreaded double dip; that is, we went into recession, recovered briefly, and then fell back into it

again. Those were some of the worst economic times that I can remember. But to listen to the rhetoric around the Senate floor no one else remembers it because we are now being told our present economy is the worst in 50 years.

Look at the historic perspective. You see when we came out of that double dip, Ronald Reagan was President and Paul Volcker was Chairman of the Federal Reserve and we established fiscal policy and monetary policy that caused the economy to start to grow in dramatic fashion. We had a period of nearly a decade where we had nothing but green above the line. But as always happens—we cannot repeal the business cycle—mistakes are made, decisions are taken on the assumption that the future will be different than it really is, and the economy slipped once more into recession in the middle of the Presidency of the first President Bush, and we had two successive quarters of red ink.

By comparison to what happened in the early 1980s, this was a happy time. But, of course, for those who lost their jobs and those who saw the economy shrink, it was not a happy time. It is never a happy time when we are in recession.

We came out of that recession and President Bush saw the balance of his Presidency a time of solid growth. It slipped for one quarter and then resumed again, and we had another period of green above the line. We didn't really get into a robust recovery until about 1995. That triggers all kinds of political debates. The Democrats said the reason for the recovery was because Bill Clinton was elected President in 1993. The Republicans say, no, the reason for the recovery is because Newt Gingrich was elected Speaker in 1995. Frankly, I don't think either one of those had that much to do with it. I think the economy, on its own, with its own strength, created this period of great prosperity.

But as the Senator from Minnesota has noticed, as we got toward the end of this period, we had the dot-com bubble, we had 9/11, we had the corporate scandals, we had geopolitical uncertainty, and the economy was shaken and slipped back again into the red. But, once again, if you notice, in a historic fashion the amount of red below the line in the recent recession was nowhere near as serious as the amount of red below the line in the 1990s, and not even close to the amount that occurred in the late 1970s and early 1980s. So that is the historic perspective of where we are. The economy is strong, it is resilient, and it is now poised for a significant period of growth that we hope will challenge if not exceed the periods that preceded it.

Let's go to the next chart that focuses entirely on the recent years, in the period where we are now. This shows the quarters that constituted the last recession, and then the quarters since then. You can see that since

the last recession, the recovery, while initially fairly weak, has now become strong and robust and continues to grow.

In discussing that with Chairman Greenspan and the Federal Reserve, I talked to him about how weak the recovery was, and he said one of the reasons the recovery has been weak compared to previous recoveries is because the recession was so mild. You don't have a strong booming recovery unless you are coming back from a period of great and serious difficulty. Because the recession was so comparatively mild, the recovery was comparatively mild. But now it appears, starting in mid-2003, that it has truly taken hold.

The jobless claims peaked during the recession, stayed high for the first part of the recovery, and then began to get optimistic and strong. That is the case here.

Let us look at the payroll jobs and how they are playing out, again in the historic pattern I have described.

This is the beginning of January 2003. Payroll jobs are being lost, but the amount of loss keeps getting smaller and smaller as the recovery takes hold. In August of 2003, the trend turns positive and the jobs start to come back. Now you have 7 months in which jobs have been created—every month, with the strong figure, of course, occurring last month of 308,000 jobs.

Once again, this follows the standard historic pattern; job are slow to come back in a recovery—every recovery regardless of who is President. People are slow to hire until they are sure the recovery is taking hold. Now the recovery has taken hold and the jobs are coming back.

The next chart shows us why this recession was as mild as it has been. It gives us an indication of what we can look forward to. It is a little hard because the colors are not as contrasting as they should be for television, but the green bars are consumer spending.

One of the interesting characteristics about this recession—it is unique indeed of any recession we have followed—is consumer spending stayed positive throughout the entire recession and then turns more positive, of course, during the recovery. That would indicate no recession at all. But, of course, there was a recession. What caused it? Go to the dark blue bars. This is business investment. We can see the response to the dot.com bubble. The bursting of that bubble was that businesses decided they had overinvested in a number of areas during that bubble. You see that in the very strong dark bars that are up here in 2000. In the middle of 2000, business investment starts to drop.

That was the signal. This was the beginning of the recession, the middle of 2000, and they slip into strong negative territory in 2000, stayed there during 2001, and do not come back to positive territory for nine quarters.

That is why we had a recession and that is why the recovery was sluggish.

Consumers were still buying but businesses were not investing partly because they had overinvested and therefore overspent during the period leading up to the recession, partly because they didn't have the incentives that were created for business investment by the tax cuts that we passed in Congress.

But, in late 2002, the trend turned. Business investment started to go up and became very strong and remained in strong territory, which is why the recovery remains strong.

But let us look at the area we have so much spoken about on the floor with respect to manufacturing. Once again, putting it in a historic perspective, going back to 1999, manufacturing spending was up and started down in 2000.

I keep emphasizing the fact that this started down in 2000, because during the election of 2000 we were told this was the strongest economy anybody could ever imagine, and if one only kept the incumbent party in power in the White House this would continue. In fact, during that period while President Clinton was in the White House and Vice President Gore was campaigning, it had already started down.

Economic activity is not that responsive to political activity; it has a life of its own.

It started down during 2000, slipped below the line that indicates whether it is growing or shrinking in the middle of 2000, it hits bottom in 2001, and then, while it comes up briefly, stays in a period and an attitude of difficulty until you get to the middle of 2003.

Again, the red arrow shows when it was going down, the green arrow shows when it is starting up, and the manufacturing activity has now come up very strong—stronger than it was before the recession started, and every indication is that it will continue.

On the floor yesterday, the senior Senator from Massachusetts talked about wages and how terrible wages are. His colleague who is running for President has said: Well, maybe the economy is coming back but we are in a wage recession and wages are terribly low.

Once again, putting this in historic perspective, we find that the present situation is not without precedent and not without indication as to what will happen in the future. Hourly earnings figures, which the two Senators from Massachusetts used to make their claim, do not include benefit costs. That is a component of compensation that every business man and woman knows you have to include.

I have run a business. I have realized, as every businessman does, that you cannot just compute the amount of money that an employee receives on his W-2 form as the cost that employee represents to you. You have to add to that the cost of his health insurance, the cost of his retirement benefits, the cost of any other benefits you give him in order to come up with the total

amount he is going to cost you. If he cannot return to your company enough economic value to cover that total cost, you can't afford it.

To those who say, well, let us ignore the total cost and just talk about the wages, I say you are ignoring economic reality. If you look at the total benefits and wages combined in total cost to an enterprise, you realize we are not in a wage recession. We are in a situation that has very careful precedent very close to what has happened in the past recessions.

When Alan Greenspan appeared before the Joint Economic Committee, I asked the question: Are we in a wage recession? He said no.

I close the way I began. It is the economy that produces money—not the budget. It is the economy that determines how well we will do and not necessarily our laws.

I go back to the headline that I held up at the beginning of my presentation in today's paper, the Washington Post. On the front page of the business section, it says "Federal deficit likely to narrow by \$100 billion."

Do you know what it would take for us to create a \$100 billion reduction this year in spending in order to get that kind of an impact? There it is—an additional \$100 billion into the Treasury by virtue of the strength of the economy rather than anything we do.

It is very important for us politicians to understand that and realize that our first responsibility is to adopt policies that will keep the economy strong and growing. I believe this administration and Congress have done that. The information that is now flowing in to us from the economic world demonstrates that our policies are the correct ones.

I yield the remainder of my time and I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

MEDICARE

Ms. STABENOW. Mr. President, I rise today to speak about the Medicare law that we passed and the newly announced Medicare discount card.

I, first, raise deep concerns about a recent report that has come forward from the Congressional Research Service which was made public yesterday. I read from an AP story and report made public on Monday by the nonpartisan Congressional Research Service that efforts to keep Richard Foster, the chief Medicare actuary, from giving lawmakers his projections of the Medicare bill's costs—\$100 billion more than the President and other officials were acknowledging—probably violated Federal law.

It goes on to say:

Foster testified in March that he was prevented by then Medicare administrator, Thomas Scully, from turning over information to lawmakers. Scully, in a letter to the House Ways and Means Committee, said he told Foster "I, as his supervisor, would decide when he would communicate with Congress."

Congressional researchers chided the move. Such gag orders have been expressly prohibited by Federal law since 1912, Jack Maskell, a CRS attorney, wrote in the report.

I hope we are going to pursue this. We have a specific report indicating the administration may have violated a law that has been in place since 1912 that relates to information not given to us about the Medicare bill and about an employee, a Medicare actuary, who was told he could not share information, even though that was his job, even though he was asked to do so, another very troubling part of the whole Medicare saga as we look at this legislation.

Sadly, our seniors now must endure another major disappointment as they cope with the implementation of last year's flawed Medicare bill. Since the final agreement was hashed out in the middle of the night last year, seniors across this country have heard more and more frustrating news about the new Medicare law. The latest is the new Medicare discount card or, as some would say, nondiscount card.

Prior to the launch of the prescription drug card Web site last week, seniors discovered one outrage after another. First, they found out this bill had an undesirable benefit. For example, if you have \$5,100 in prescription drug costs in a year, you still have to pay 80 percent of that—over \$4,000. That is not the kind of benefit people in Michigan desire. When the benefit is explained to them in public forums where I have been participating, people are very upset. This is not the kind of benefit they have been asking for.

Second, they began to understand this legislation will undermine private health insurance and almost 3 million retirees will lose their private prescription drug coverage. About 183,000 people in Michigan, as a result of this bill, are predicted to lose the private coverage they worked for their whole lives and count on now in retirement.

Third, they realize approximately 6 million low-income seniors will have to pay more under this new plan than they did under their existing Medicaid coverage or their coverage will be more restrictive. Think of that for a minute. For the folks who are lowest income seniors, whom we all speak about having to choose between food and medicine, under this new law they will have to pay more—maybe only a little bit more, but every dollar counts when you are choosing between food, medicine, paying the electric bill, or cutting pills in half or taking them every other day. It is astounding the bill that was passed actually increased the costs for our poorest seniors.

Fourth, our seniors discovered there were no provisions to actually lower the prices of prescription drugs. That is amazing. Despite the House of Representatives overwhelmingly passing a bipartisan prescription drug reimportation bill to open the borders and bring back lower priced prescription drugs—

in most cases, American-made or American-subsidized drugs—instead of that, which would lower the costs of some drugs up to 70 percent, it was summarily dropped in conference committee under pressure from the White House and the pharmaceutical lobby.

Fifth, at the last minute, the pharmaceutical companies pressured their allies in Congress to put in a provision that actually prohibits Medicare from negotiating bulk prices. Amazing. We are not even using the full leverage of Medicare to negotiate group prices. As a result, the Medicare Program cannot use its market power to get lower prices for prescription drugs, unlike the VA. We all know the Veterans' Administration negotiates deep discounts on behalf of our veterans. We actually have a situation now in the case of a husband and wife who are retired. The husband is a veteran and he is getting a major discount, possibly up to 40-percent discount in his prescription drug prices, and his wife, who is on Medicare, has to pay higher rates. That is not fair and it is not right. It needs to be fixed.

Sixth, a month after the bill was signed, all Americans discovered the administration deliberately hid certain cost estimates from Congress and the American people. These figures contain what some thought all along, that this bill would cost more than the \$400 billion projected. Perhaps the lack of any provisions to help lower prices led to its higher cost. And now we hear from the Congressional Research Service that, in fact, the administration has likely broken the law in keeping that information from us.

Finally, to add insult to injury, our seniors are now seeing political television commercials promoting the new Medicare Program, paid for by American taxpayers, during the middle of an election campaign, and the ads are not accurate. The ads are not accurate and complete and they leave out some of the biggest problems with our new private card.

Let me speak now specifically to the card. First of all, this chart is not meant to be a joke. This demonstrates 50 different steps in the process of getting a Medicare prescription drug card. You do not necessarily have to take all 50 steps, but it is a very confusing process to wade through over 30 different cards to determine whether one of them is best for you. Your region may have access to other regions and may be able to apply for very complicated low-income assistance. I should say the low-income assistance is the one positive in this card. If you do manage to move through the complexity and a senior or a disabled person does qualify, it does provide \$600 to help them pay for medication. This is very positive.

The Families USA study looked at this and indicated the application process for low-income drug subsidies is unusually cumbersome and is built on an untried application infrastructure. As

a result, they estimate of the 7.2 million low-income seniors who would actually be eligible for the extra help—and we want each and every one of them to receive it—only 4.7 million will actually receive it because of this complexity.

The latest development is misleading. These so-called discount cards may actually mean higher prices also for seniors than they would otherwise get now without any new Medicare Program.

For example, seniors can get lower prices for prescription drugs by simply getting their prescriptions filled through a number of sources they have right now. There are a number of very good county programs in Michigan that I encourage seniors and families to take a look at that cost less than the Medicare discount card and actually provide more benefit.

We also found by a study just completed in the House of Representatives that purchasing through the Internet can be a less costly way to receive discounts. Let me give an example. Go to a Web site for the top 10 most used drugs by our seniors, for example, at drugstore.com. The yearly cost is \$959. There is no annual fee. The total cost would be \$959. Two other Web sites, the same thing: \$990 and \$993. If you go to one of two of the over 30 different private Medicare discount cards, one is called RXSavings, to get the same 10 drugs, supposedly at a discount, would cost more—\$1,046, and you have to pay an annual fee of \$29.95 in order to have the privilege to pay more. The end result would be \$1,075.95. The same is true with Pharmacy Care Alliance. It costs you more than what is out there right now as discount cards, but you have to pay \$19 to get the card, and in the end you are paying more. This is not a good deal for our seniors.

Let me give another example and actually suggest what we ought to be doing. I should mention that the average discount card is \$30 for a senior. You have to have it for a year, and even though you cannot change your card for a year, the company giving you the card can change the list of the drugs that are discounted every 7 days. So you look at all the complexity, through all the cards, you pick the card that covers the drugs you use because you need that discounted amount, you pay your \$30, and then 7 days later the drugs you need are not on that card anymore. This is not a good deal for our seniors.

What is a good deal for our seniors is legislation we have in front of us right now to allow us to open the border to safe FDA-approved prescription drugs coming back to our local pharmacy from Canada or other countries with similar safety precautions where we can literally drop prices in half. That is a good deal.

We have a bipartisan bill in front of us. A very large coalition of Senators has been working together. It is time to bring that bill forward to the Senate floor and to pass it.

Now, why is that better? Well, as an example, under one of the private cards, after you purchase your private card, Lipitor is listing at \$71.19. It costs you \$74.72 to get it under another card. But if we simply passed that bill, it would allow us to bring back those lower prices from Canada to the local pharmacy. You could pay \$49.85. That is true over and over.

The real way to lower prices is to allow us to get the lowest price, whether it is in Canada or the U.S. or other countries where we can make sure that the safety is there, and bring back the prescription drugs to our local pharmacy. The other way is to give Medicare the clout to truly negotiate, as the VA does, to be able to lower prices for our seniors.

This law has so many flaws. I believe we ought to go back to the drawing board. We need to pass a meaningful prescription drug benefit. We can do so before the law takes effect in 2006. We can do better. I encourage our seniors to think very carefully and cautiously before proceeding with one of these private discount cards.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank my colleague from Michigan who has been tireless in her efforts to educate the Senate as well as the American people about the prescription drug issue. I don't think there is another Senator who has dedicated herself or himself to this issue as much as Senator STABENOW. I thank her. She has done a lot in terms of letting us all know what is at issue.

We all understand the basic problem: Prescription drugs cost too much money—not just for seniors, but for almost everyone. Unless you are one of the fortunate few who has some sort of prescription drug coverage that takes care of the cost, you have to reach into your pocket, pay out substantial sums of money for drugs and medicines that the doctor tells you are absolutely necessary for your health. For some who are in strong income positions, this is not a hard choice; you just write the check or hand over the credit card and don't think twice. But for a lot of people living hand to mouth, trying to count the pennies and get by from month to month, it becomes an impossible choice. To be told that it is your money or your life is the worst possible choice, and that happens over and over again.

Forty million seniors on Medicare end up paying higher drug prices than any other group of Americans. Let me repeat that. Forty million seniors under Medicare pay higher drug prices than any Americans. How can I say that? I can say that because these are people on fixed incomes, many of whom don't have insurance protection for prescription drugs. They find themselves in a position where they have to pay the full price while someone—their son or daughter who is fortunate to

have a plan at work—may have a lower cost or a reduced price for prescription drugs. Someone who is disabled and on Medicaid, for example, has the benefit of the Government bargaining to bring in lower prices. Right on down the line you see that person after person has protection, but for the senior citizens, they end up paying the highest prices.

I have heard colleagues repeatedly say, that is just the price you have to pay in America. We have to have somebody pay inflated prices for drugs so the companies have enough money for research.

Keep in mind that pharmaceutical companies are the most profitable economic sector of our economy. They make a lot of money. Though they need to make a profit—that is why they exist—though they need money for research, the fact is most of these companies pay more money for advertising their product than they do for research to find new cures for diseases.

We tried to pass a prescription drug bill that would have finally given Medicare the power to bargain down prices and make them affordable for seniors. It was rejected by the overwhelming majority of the other party and even a few on our side of the aisle because the pharmaceutical companies don't want to face any customer with bargaining power. Forty million seniors under Medicare would be the strongest bargaining unit possible. Instead, we passed a bill which, frankly, is going to delay the implementation of a very poor substitute, a Medicare drug program, until long after the election. Conveniently, this disastrous bill will not go into effect until long after the election. In the meantime, though, the Bush administration is anxious to tell the seniors that we haven't forgotten you.

Yesterday they rolled out a discount card to give seniors a break on the cost of drugs. Take a look at what that discount card means when we actually compared it to the town of Evanston, IL, to what people are paying at the pharmacy.

Lipitor, the largest selling drug in the world, \$10 billion in annual sales, \$6.5 billion in the United States, lowest retail price is \$68.99. With this great new discount card the Bush administration rolled out yesterday, \$67.07—a savings of 3 percent. Celebrex, savings of 2 percent. Norvasc, it turns out the discount card price is higher than the price of the pharmacy.

The bad part about this new Medicare drug discount card is, once a senior signs up for it, they are stuck for a year. That means they pay the annual fee and can't go to another private discount card. Meanwhile, the company offering the discount can change the number of drugs covered and the price of the drug on a weekly basis. So you are stuck having paid your membership fee with a situation where the drug companies can keep raising prices way beyond what you think they are going to be.

Are they likely to raise prices? Take a look at what has happened to the increases in prices since we started debating this: Celebrex has gone up 23 percent in cost; Coumadin, very common, 22 percent; Lipitor, 19 percent; Zoloft, 19 percent; Zyprexa, 16 percent; Prevacid, 15 percent; and Zocor, 15 percent.

So when you are saving 2 or 3 percent on the card today and no guarantee that it will be there tomorrow and prices are going up in this fashion, is it any wonder that seniors are skeptical of this administration's commitment to lowering drug prices?

Secretary of Health and Human Services Tommy Thompson said last week: I want to warn seniors; on May 1 we are going to roll out this new card, but hold back. Don't commit yourself early. There is still more information coming in.

There certainly is. The information is troubling. These discount cards being offered by the Bush administration, frankly, could be a bait and switch for seniors. They could end up with a discount today that disappears tomorrow. They are stuck with it. They could end up signing for a discount card for a drug that is discontinued by that same company offering the card next week.

Take a look at what we could be doing instead of these bait-and-switch phony discount cards. Take a look at what we could be doing on Lipitor: With the Medicare discount card, \$67.07. Do you know how much they pay in a veterans hospital for that same drug? Thirty-six dollars and 48 cents. Why? Because the VA bargains with Pfizer and it brings the price down dramatically. This Senate passed a bill prohibiting us under Medicare from bargaining with pharmaceutical companies to get the best price for seniors. They specifically prohibited it. Why? So the drug companies could make more money and seniors would pay more money. If you have to go to Canada for that same Lipitor, it is about \$50. Look at this. America's seniors are paying the highest prices, even with the discount card, in comparison to veterans and the price of the same drug in Canada. Prevacid is \$111 under the Medicare card; it is \$53.90 in the VA hospitals; it is \$56 in Canada. Zocor is \$101 under the Medicare card; it is \$69 in a VA hospital; it is \$63.98 in Canada.

Seniors understand this. I met with them in Chicago yesterday. They understand what is happening here. This is an election year push to tell seniors across America they are going to get a discount. But they know better. They are wise in their years. They have seen a lot of politicians come and go. They are not going to be swayed by a discount card that offers little or no hope to bringing down the cost of these expensive drugs.

I have written a letter, along with a dozen colleagues, to Secretary Thompson, saying, For goodness sake, give seniors a grace period here. Don't tie

them down with a card that could be disastrous for them and their families. With a grace period, if they find out it is not a good deal, that would be fair to seniors—something the Medicare discount card is not.

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

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

The bill clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, under the time controlled by the Democrats, how much time does Senator LAUTENBERG have?

The PRESIDING OFFICER. There are 9½ minutes.

Mr. REID. I checked with the majority. I ask unanimous consent for an additional 5 minutes on our side for Senator SCHUMER, and we ask also that there be 5 additional minutes of morning business extended to the majority.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Jersey is recognized.

MEDICARE DISCOUNT DRUG CARDS

Mr. LAUTENBERG. Mr. President, I want to now discuss my concerns about the ads we are seeing regarding the new Medicare drug discount card. I think the ads are misleading, and I am getting a lot of inquiries from people at home about is this good for me or not. I think there is a fundamental mistrust about whether this is an idea whose time ought not yet come, because the citizens are saying it is starting in 2006, and this is obviously a lead-in to that. I think it can be described as a placeholder.

The card became available yesterday, but the administration is keeping seniors in the dark about the real benefits and weaknesses of the program. They have produced a television commercial that is hyping the card and are spending \$18 billion to show it across the country.

In this ad, there is a group of seniors in line at a pharmacy and the announcer says: "Good news for those with Medicare. You can get savings on prescriptions." They do it in the right mellifluous tone, just for those on Medicare. That is really all the announcer says about the card—"good news . . . you can get savings." That's it—all hype and no substance.

The television ad is almost a cruel joke on our Nation's seniors. Instead of providing real, needed information about the drug card, the administration has launched a PR campaign to boost the image of the card.

HHS should have spent less time focusing on hype and more time providing seniors with critical information about the card program.

We have to look at what is missing on the card. I urge the administration to include something else in their mailing. This is called a magnifying glass. Everybody knows what it is. It ought to be sent so you can read what this small type says. It says, "Scene from the HHS 'shine' ad, featuring the 'strange, blue, magical glow of light.'"

It goes further—and we have enlarged the type. The magnifying glass would be a nice accompaniment for seniors who are getting this, because they should read this small type. It says: "Savings may vary. Enrollment fee, deductibles, and copay may apply."

And here they say "certain exclusions apply."

We need the magnifying glass to see that.

What we are looking at is some fairly deceptive advertising. It is shocking that the administration would once again run ads that leave out these important details, especially in light of the findings by the GAO that earlier Medicare advertisements had a political tone and contained "notable omissions and other weaknesses."

Many seniors watching this commercial could reasonably believe the discount card is free. In reality, there is an annual enrollment fee of up to \$30.

Many drugs would be excluded from the program. Seniors could be stuck with a Medicare drug card that provides no discount for the prescription drugs they may need. For example, seniors using the Medicare discount card offered by the Pharmacy Care Alliance would get no discount for Celebrex. Celebrex is a common, apparently very effective drug used to treat arthritis. With the card, you can buy the drug for \$121.80. But if you don't have the card, you can get the same medication for only \$76.99 at drugstore.com, so there is a savings of over \$40. The card is useless for this drug.

Another example: Seniors on the Rx Savings Medicare Card Plan would pay \$147.01 for Prevacid, a common drug used to treat acid reflux. But there is no discount at all when you consider that you can buy the same drug for \$120.99 at drugstore.com without any card. That is a savings of over \$25 if you do not use the card. That is a good idea. Don't use the card.

Lipitor is used to treat high cholesterol. If you have the Pharmacy Care Alliance Medicare drug card, it costs you \$71.19. But if you want to buy it at drugstore.com, that \$71.19 product cost only \$62.99. So there is \$8 worth of savings right there at drugstore.com without any card. The savings are hazardous at best.

These Health and Human Services television ads do not provide any of these details except, once again, in the tiny type on the bottom of the screen, and you ought to get a magnifying glass if you really want to understand what is taking place.

Look at this placard. It shows actual scenes from HHS's advertisement. I point out as I did before:

Savings may vary. Enrollment fee, deductibles, and co-pay may apply.

They are saying: Hey, hold on to your pockets because we are not really telling you what the outcome is going to be.

What little substantive information is included can only be found at the bottom of the screen in print so small that you need a magnifying glass to read it. They make sure the type is in a color that is very hard to read. If this was an automobile, people would be hollering that this is flimflam. Only in its barely visible fine print are seniors informed there is an enrollment fee for the discount card.

It also reveals that "certain exclusions apply." That exclusion could very well be the prescription drug you need.

Rather than educating seniors about the drug discount card, HHS is treating the Medicare drug card like dishwashing soap—just make the public think it is a great thing. These are not educational ads. They are propaganda. The GAO already told HHS that its previous Medicare materials were misleading, but rather than clean up its act, the administration continues to hide the fact and trick seniors.

I call on HHS and the administration to stop using taxpayers' dollars to mislead seniors and start providing real needed information to Medicare beneficiaries. One should not have to have a magnifying glass to understand what is being offered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, Senator SCHUMER is not here; therefore, I yield back his time.

Does the other side yield back their morning business time?

Mr. GRASSLEY. We yield back our 5 minutes.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1637, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1637) to amend the Internal Revenue Code of 1986 to comply with the World

Trade Organization findings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

Pending:

Harkin amendment No. 3107, to amend the Fair Labor Standards Act of 1938 to clarify provisions relating to overtime pay.

Collins amendment No. 3108, to provide for a manufacturer's jobs credit.

Wyden amendment No. 3109, to provide trade adjustment assistance for service workers.

The PRESIDING OFFICER. Under the previous order, the time until 12:30 p.m. shall be equally divided between the chairman and ranking member of the Finance Committee or their designees.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendment be set aside so that the Senator from North Dakota may offer his amendment.

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

AMENDMENT NO. 3110

Mr. DORGAN. 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 North Dakota [Mr. DORGAN], for himself, Ms. MIKULSKI, Mr. HARKIN, Mr. FEINGOLD, Mr. KENNEDY, and Mr. EDWARDS, proposes an amendment numbered 3110.

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

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

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

Mr. DORGAN. Mr. President, I shall not debate the amendment at the moment. My understanding is the bill managers want to sequence a number of amendments. Let me indicate this amendment deals with the question of trying to close a tax provision that actually rewards or incentivizes those U.S. companies that would move jobs overseas for the purpose of producing a product and shipping it back into our marketplace. I believe that is a tax loophole that ought to be closed. We ought not incentivize the loss of American jobs and the movement of American jobs overseas.

I offer this amendment on behalf of myself and Senator MIKULSKI and others. We will be happy to come this afternoon to debate it. Also, I will be happy to reach a time agreement when we come back this afternoon. It is not our intention to delay this bill. I want to see this bill finally passed, but I do want to have a good debate on our amendment. We will be ready to have a reasonable time agreement this afternoon.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding, after speaking with the

two managers, that Senator HARKIN and Senator JUDD GREGG will debate the overtime amendment, but they are not here now.

I ask unanimous consent that Senator SCHUMER be allowed to speak as in morning business for 5 minutes.

Mr. GRASSLEY. If you give us 5 minutes sometime during the day.

Mr. REID. And that the Republicans have like time on their side whenever they want.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Reserving the right to object, and I will not, before he leaves the floor, I thank the Senator from North Dakota. He has been helpful and constructive in getting amendments lined up. I spoke to the cosponsor of the amendment a short time ago, and she will, this afternoon, join the Senator. I thank the Senator for his cooperation.

I have no objection.

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

The Senator from New York.

NEW YORK NATIONAL GUARD

Mr. SCHUMER. Mr. President, I thank both the chairman and the ranking member of the Finance Committee for allowing me to speak for 5 minutes on this issue.

I wish to take this opportunity to recognize the important and significant role that New York's 2nd Battalion 108th Infantry Regiment recently played in the rescue of Thomas Hamill, the civilian contractor held captive for 3 weeks in Iraq.

Seeing this unit in the area surrounding the farmhouse in which he was kept gave Mr. Hamill the courage to stand against his captors and escape to freedom. That is why I wish to recognize the 2nd Battalion 108th Infantry Regiment today.

I know it must be of great comfort to Mr. Hamill's family and friends that when he first stepped in the light of freedom, he was greeted by these fine New Yorkers. This is what it is all about. A man from Mississippi escaping bravely, and there were New Yorkers. They are headquartered in Utica, NY, with companies in Whitehall, Morrisonville, Gloversville, Rome, and Glens Falls. The unit has served this country since 1898 at home and abroad, and there they were in exactly the right place at the right time to help Mr. Hamill.

The bottom line is that after the attacks on September 11, many of the men and women of the 2nd Battalion were activated and came to New York City to protect our citizens. They are aware, better than anyone else, that this war on terror is a war we must fight both at home and abroad, protecting us at home and protecting us abroad.

A full 11 of these National Guardsmen have such love for their fellow New Yorkers and for America that they are fighting in Iraq as new citizens, having been sworn in at a send-off

celebration in February. The 2nd Battalion is fortunate to have guardsmen hailing from Africa, South America, the Ukraine, Japan, and across the world now serving as American citizens. What an extraordinary first act as an American to serve and protect the Iraqi people and lead Mr. Hamill to freedom.

Family, friends, and neighbors from Albany to New York City, from Westchester to Plattsburgh, Syracuse and Buffalo all gathered together at that send-off celebration to show their support and honor their bravery.

In the 2 months they have been in Iraq, these men and women have been serving under the leadership of LTC Mark Warnecke, having truly served their country in the true tradition of the National Guard. Today I recognize the efforts of the 2nd Battalion 108th Infantry Regiment. When they return home to their families, they will do so as heroes.

Mr. Hamill is now safe and recovering in Germany and looking forward to a reunion with his wife and his return to Mississippi, after his courageous ordeal. I look forward to the day when the men and women of New York's 2nd Battalion 108th Infantry Regiment can return as heroes to their own families. May God grant them safety and security as they finish out their tour. I hope their example will bring courage and pride to all those serving in Iraq, resiliently going about their task of bringing peace and freedom to the Nation.

All New Yorkers and all Americans congratulate the 108th Infantry Regiment of New York today, and we say two words to the 108th Infantry Regiment: Thank you.

I yield the floor. I ask unanimous consent that the time on the quorum call be charged equally against both sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, may I know what the parliamentary state of affairs is?

The PRESIDING OFFICER. The time is equally divided between the two managers of the bill.

Mr. HATCH. As I understand it, the Harkin amendment is being debated?

The PRESIDING OFFICER. The Harkin amendment is pending.

Mr. HATCH. Mr. President, I rise today to express my support for the Department of Labor's revisions to the Fair Labor Standards Act—FLSA—to protect and extend overtime benefits to hardworking Americans. I wish to

thank Labor Secretary Elaine Chao for her leadership and vision in bringing about this important reform for American workers. Overtime provisions in Federal labor law are meant to safeguard low-income workers from employers who would take advantage of them, but the current regulations that implement the law are muddy, outdated, and have led to countless law suits, some of which are frivolous and fruitless. Truly, Secretary Chao has recognized that it is long past due to reform our nation's antiquated overtime regulations.

The new regulations replace longstanding regulations which the Department of Labor has characterized as "confusing, complex, and outdated." I agree. Consider the fact that the Federal overtime regulations were last overhauled when Harry Truman was in the White House. That's more than 50 years ago. We are relying on a half-century old law to protect overtime rights for workers with job duties that didn't exist in 1949. Yet, there are some among us who are determined to push legislation to block these rules. Some Members of Congress see a chance to score political points by acting as if something oppressive is occurring. This could not be farther from the truth.

Under the current regulations—these are the regulations Secretary Chao is trying to improve—some low-income workers haven't been protected at all, while some high-income workers and professionals have used the law to make sure they are paid the overtime rate, time and a half per hour for any work exceeding 40 hours in a week.

For example, under the current regulations: Only workers earning less than \$8,060 were guaranteed overtime pay because the minimum salary level had not been updated for nearly 30 years; the descriptions of job duties required for overtime exemption had been frozen in time for nearly 50 years, resulting in confusion and uncertainty for both workers and employers; and, the previous regulations were outdated, confusing and complex, and have led to an explosion of law suits. That seems to be the history of our country. Everything is coming down to litigation.

For a year, the Labor Department has been trying to update these cumbersome regulations to benefit the American workforce. The new overtime regulations were not simply conjured up overnight. On the contrary. Nearly 80 stakeholder organizations, including 16 employee unions, were invited to participate in meetings with the Department of Labor.

Over 40 of those organizations attended stakeholder meetings and provided input on the proposed regulations. The Notice of Proposed Rulemaking was published in the Federal Register on March 31, 2003. After a 90-day comment period, the Department of Labor received 75,280 public comments.

I was supportive of the Department's overtime regulations proposed last

March; however, some argued that the \$22,100 annual minimum salary level for exemption was too low; the middle-income workers would be harmed because workers earning more than \$65,000 per year might not be entitled to overtime pay; and, too many workers would be denied overtime protections.

In an effort to be even more inclusive and respond to the criticisms from Administration opponents, the Labor Department revised its proposal—that is after all of the comments—which is the way the system is supposed to work.

Under the final rule, workers making less than \$23,660 a year are automatically eligible for overtime—this means that 1.3 million low-income workers will be eligible for overtime pay for the first time in history.

The new regulations will preserve eligibility for most white-collar workers making up to \$100,000 a year. However, workers making more than \$100,000 who regularly perform some administrative, executive, or professional duties will no longer automatically be eligible for overtime. This change will affect 107,000 workers. It doesn't take a particularly clever politician to see that you might win votes if you fight to make these high earners higher earners and otherwise carry on as if a Republican, business-friendly Administration cannot be trusted to do right by employees.

The final rule strengthens overtime protections for licensed practical nurses and first responders, such as police officers, fire fighters, paramedics, and emergency medical technicians, by clearly stating for the first time that these workers are entitled to overtime pay. Plain and simple, under the new overtime regulations, 6.7 million workers are guaranteed overtime status.

I am aware that a week before the Department of Labor's revised rule was finalized and made publicly available, the AFL-CIO began attacking the overtime regulations. These tactics reflect a greater interest in playing politics than in protecting America's workers. Fortunately, the union movement is not entirely opposed to the regulations. Take for example the Nation's largest police union, the Fraternal Order of Police, whose National President, Chuck Canterbury, recently hailed the Department of Labor's final regulations as an "unprecedented victory" for America's first responders. The International Association of Fire Fighters has said they support the rule going forward. You also won't be hearing voices of opposition from the Ironworkers, Carpenters, or Operating Engineers, because they know that the new rule expressly protects construction workers.

Suing employers about overtime has become very lucrative for trial lawyers. Why is this the case? Because the current overtime regulations contain so many ambiguities when applied to the modern workforce, lawsuits naturally follow. Without a doubt, the Fair

Labor Standards Act is the new playground for plaintiffs lawyers—they are going after everybody: companies; school districts; local governments; you name it. Some argue that these lawsuits benefit workers, particularly since they may win some cases. But, spending an average of 2 years in court to recover wages workers should have had in their pockets on pay day is not a benefit. Not surprisingly, workers are getting a few thousand dollars from these settlements, while trial lawyers are walking away with millions. These lawsuits are a terrible drain on the economy for employers and worker groups alike to be spending hundreds of millions of dollars on such litigation. We ought to be spending these resources to create new jobs.

I am amazed that the Department of Labor's changes haven't been enough to satisfy all critics. Presumptive Democratic presidential nominee Senator John Kerry asserts that the new overtime regulations "strike a severe blow to what little economic security working families have left as a result of historic policies." That is pure bunk, and he ought to know it. Somehow, opponents have conveniently overlooked the Department's good faith efforts in creating today's overtime regulations.

Are the new rules perfect? No, but they have been welcomed by many business owners because they will, finally, provide some certainty on this issue. Contrary to the propaganda being disseminated by its proponents, under the new overtime rules: "Blue collar" workers are entitled to overtime pay; employers are not relieved from their contractual obligations under collective bargaining agreements; the "highly compensated" test applies only to employees who earn at least \$100,000 per year and who "customarily and regularly" perform exempt duties; the special rules for exemption applicable to "sole charge" executives are deleted, strengthening protections for workers under the executive duties test; a requirement is added that employees who own at least a bona fide 20 percent equity interest in a business are exempt only if they are "actively engaged in its management"; and the previous requirement that exempt administrative employees must exercise discretion and independent judgment is maintained.

The department's intent not to change the educational requirements is clarified for the professional exemption, and defines "work requiring advanced knowledge" as "work which is predominately intellectual in character and which includes work requiring the consistent exercise of discretion and judgment;" and, terms used in the previous regulations are retained, but it makes them easier to understand and apply to the 21st Century workplace by better reflecting existing Federal case law. In addition, the overall length of the regulations has been reduced from 31,000 words to just 15,000.

Just yesterday, I received a phone call from Cheryl Lake of Draper, UT.

Cheryl has been a human resources professional for over 20 years. She called my office yesterday in strong support for the Department of Labor's new overtime regulations. She explained to me how helpful these new regulations will be for employees and companies alike. Cheryl expressed major concern about Senator HARKIN's amendment, and explained how complicated and confusing his amendment would make her job. The Harkin amendment is easy to describe in a brief sound bite, but impossible to defend on legal, procedural, or economic grounds. The amendment presumes facts that do not exist and assumes there are no consequences for its folly.

To anyone who looks at this issue objectively, the decision is a no-brainer. Reforming the regulations is the right thing to do, and we need to let the Department of Labor move forward. There is nothing in the latest revisions that appears either unreasonable or counter to the spirit of the law. It is possible to argue with some particulars, but extremely difficult to make the case that the new regulations are unfair to workers.

The workplace is far different from a half-century ago. Overtime rules should reflect that.

Workers will be better off. Companies will be better off. I actually believe trial lawyers will be better off because there won't be any more of these phony lawsuits where they reap the benefits in comparison to what the workers themselves get. I think trial lawyers who have legitimate cases will be able to prove them with more specificity and will be able to do a better job with their clients than is currently being done by the abuse of the process because of the ambiguities of the law. This goes a long way toward getting rid of those ambiguities and making the law extremely functional compared to the current regulations.

I want to personally compliment the distinguished Secretary of Labor for being willing to take this on. This is a type of job that will always be attacked by those who do not understand these regulations. This will always be attacked by those who want to keep going the same system of overlitigation in our society. This will always be attacked by those who basically don't understand labor law. This will always be attacked by those who do not want to get things straightened out so that the system works in the best possible way it can, in the most efficient and economically sound way, while at the same time expanding all of the benefits and expanding all of the laws to embrace even more people than have ever been embraced.

These are very important regulations. I hope our colleagues will reject the Harkin amendment, which I believe will cause further damage and harm to our system while not doing anything substantively important for the workers.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

THE FEDERAL DEFICIT

Mr. CONRAD. Mr. President, reading the Washington Post this morning, I came across this headline which I think is probably the most misleading headline I have seen in the Washington Post, or, for that matter, any other publication. The headline in the Washington Post business section today reads: "Federal Deficit Likely to Narrow by \$100 Billion."

Boy, what good news, if only it were true. I think you have to ask yourself the question: Are they talking about the deficit last year? Is the deficit this year going to be \$100 billion less than the deficit last year? No. That is not what this story is about. In fact, if you read this story carefully, what you find is the deficit is going to be at least \$50 billion more than the deficit last year—not \$100 billion less.

The Washington Post has constructed a headline that is about as misleading as anything I have ever seen a major publication put out. They have basically fallen hook, line, and sinker for the line put out by the White House.

Why do I say that? Last year, the deficit was about \$370 billion. According to this story, the deficit this year is going to be \$50 billion more—a new record deficit. The headline should be "Record Deficit." Instead, they are suggesting the deficit is getting smaller.

What are they talking about? They are talking about how the latest estimate is \$100 billion less than the administration's previous estimate. In other words, they are comparing estimate to estimate—not what is actually happening, but projection.

When the administration put out their earlier estimate, I said at the time they were overstating the deficit to set up a story just like this one. They don't want the headlines to read across America "Record Deficits." What they did was overstate the deficit in terms of their estimates so they could come back later and say we are making a big improvement. There is no improvement, except in estimates.

The fact is, the deficit this year is going to be bigger than the deficit last year, and the deficit last year was a record.

Unfortunately, all of these estimates understate the true seriousness of the fiscal condition of our country because they don't count in addition to this \$420 billion, which they now estimate the deficit to be for this year, and that doesn't include the \$160 billion they are going to take out of Social Security, every penny of which has to be paid back, and they have no plan to do so. This doesn't include the \$50 billion to \$75 billion of extra money the Pentagon is going to want for the war in Iraq and Afghanistan that we now know they are going to have to ask for.

There are some who suggest they will wait until after the election to ask for it, but that doesn't change the fact that the money is needed, that the need is being created now.

If you add all of that together, and the money they are taking out of the Medicare trust fund, which is another approximately \$20 billion, what you find is they are not going to add \$420 billion to the debt this year. They are going to add close to \$700 billion to the debt this year, by far the biggest in our history—nothing anywhere close to it.

For the Washington Post to fall for this kind of tired old trick—you know, you overinflate the deficit so that when it comes in somewhat less than your overestimation you can claim great credit, is a discredit to the Washington Post. It is a discredit to trying to inform people of the true fiscal condition of the country. This isn't it. Even if you accept the premise of this story, the deficit is going to be about \$50 billion more than last year, which was a record. That is exactly the headline the administration seeks to avoid by having put out an overestimation of the deficit in order to now claim credit when the deficit, although a record, is not as large as their earlier forecast.

I hope the American people are not fooled by this kind of reporting. I hope the American people are not fooled as to the true fiscal condition of the country. The truth is, the debt of the United States is being increased by a record amount.

I thank the Chair and yield the floor. The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield to Senator GREGG.

Mr. GREGG. Mr. President, it is my understanding that I am now in a position to set aside the pending amendments, offer my amendment, and then they will be voted on in sequence. Are we agreed on that?

Mr. BAUCUS. That is the understanding.

Mr. President, I ask unanimous consent that the pending amendments be temporarily set aside so the Senator from New Hampshire may offer an amendment; and after he has spoken on his amendment, the amendments will be temporarily set aside so that Senator GRAHAM may offer an amendment.

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

The Senator from New Hampshire.

AMENDMENT NO. 3111

Mr. GREGG. Mr. President, I rise to speak on the Harkin amendment, which was pending. It has been set aside by unanimous consent so I may offer an amendment which can be juxtaposed to the Harkin amendment.

The issue of overtime has been discussed at great length in the last few days. The debate has been excellent. The Harkin amendment, as it comes forward, is an attempt to address what the Senator from Iowa sees as a continuing problem with the regulations as proposed by the Department of Labor.

We need to review the history of what has happened so we can understand where we actually are in this process. The rules and regulations we are dealing with are over 50 years old and have evolved through a lot of litigation, court decisions, and regulatory activity into what is a fairly Byzantine and complex set of regulations relative to who does and does not get overtime in our society.

Under today's law, if you make \$8,000, you are guaranteed overtime. Once you get over \$8,000, you do not know what will happen. It depends on how your job is classified. There is a lot of arcane classification which comes from the 1930s, 1940s, and 1950s. For example, still in the law we have things such as straw man and a variety of different titles which have no relationship to reality in the marketplace as it is today and the workplace as it is today.

We need to update the regulations. The Department of Labor has done a very conscientious job in trying to accomplish this and have offered a set of regulations as a proposed set of regulations. That proposed set of regulations received 80,000 comments, which is a huge amount of commentary.

In the Senate, regrettably, it received a lot of hyperbole and attack as if it were a final regulation versus a proposed regulation. There were significant misrepresentations that occurred in the process of attacking these regulations, including representations that under these regulations there would be a loss of a number of people who would have the right to receive overtime, something like 8 million people, which number was arrived at in a totally spurious and inappropriate analysis done, regrettably, by a couple of folks who either did not understand the rules or decided to pervert the rules and which led, regrettably, to a lot of misrepresentation as these rules were said to be affecting the overtime of over 8 million people.

I return to that argument because it was so bogus and so inaccurate that it is important to understand how misleading it was as it represents sort of a theme of inaccuracy relative to the initial proposed regulations.

That 8 million number, when it was actually analyzed, included 1.5 million individuals who worked part time for less than 35 hours a week and therefore were not even covered by overtime issues. It included 3.8 million people who were actually technicians or administrative workers who were already exempt as professionals from this rule. And it included 1.1 million workers who were paid on an hourly basis and therefore would continue to be non-exempt under the proposal. It included 800,000 people who did manual blue-collar work and were therefore completely exempted from this proposal. And it included 200,000 cooks with 6 or more years of experience who clearly would

remain covered because cooks are not a category which would be impacted under this regulation.

So the actual number of that 8 million number, when you actually analyze it in honest terms, ends up being dramatically less. In fact, using the analysis and using accurate factual applications to the analysis as proposed, the number actually comes in below what the Department of Labor stated their original proposal might be impacted by this event.

The number was bogus, as has been a lot, regrettably, of the debate on this issue. The regrettable holding up and obstruction of various pieces of legislation which have come to the Senate on the theme that these proposed regulations were basically final regulations and that they would do massive harm, which harm could not be defended on the facts.

Now the Department of Labor has taken a look at the 80,000 comments which it has received and met with innumerable stakeholders, and listened to all the input of organized labor, from the various other interests that have a major role in this undertaking, and they put out final regulations. Interestingly enough, those final regulations are an extremely aggressive attempt to respond in a positive way to all the input, the 80,000 items of input, comments which they received.

They have done such a good job in this area. It should be noted that the Washington Post today, which had opposed these regulations when they were initially proposed, or at least suggested significant changes that should be made, has said, and I quote the Washington Post editorial, not a paper which carries the water of this administration:

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

The editorial points out what a good job the Department of Labor is doing in the enforcement area. That is a simple and accurate reflection of what the Department of Labor did. They looked at the comments that came in and they made the significant changes which have now made this regulation more appropriate and much more effective.

What is the goal of this regulation? The first goal of this regulation as proposed is to make sure people earning not a significant amount of money are going to get overtime. So they raise the threshold from \$8,000 to \$23,000-plus. If you make in the \$23,000 to \$24,000 range, you are guaranteed overtime. It does not matter what type of job you have. If you are considered to be management or whatever, you are going to get overtime under this piece of legislation in a white-collar position. That means that 6.7 million people who do not have an absolute guarantee to overtime today under the present law are going to have an absolute guarantee to overtime under the

new regulation. That is a major step in the right direction.

It also says if you make more than \$100,000 and you are in a white-collar position—not a blue-collar position; you are exempt in a blue-collar position; you get overtime, even if you make more than \$100,000—if you are in a white-collar position and earn over \$100,000, your overtime may be at issue. It depends on what you do.

Potentially there are 100,000 people, approximately, who may be impacted by that regulation. In fact, if they are making more than \$100,000, they may be in a management supervisory position so their overtime may be impacted.

So 6.7 million people who do not get it today or may not get it today or may be at risk today will be guaranteed overtime. They will get it for sure. People making more than \$100,000 who are in certain job categories, potentially 100,000 people, their overtime may be impacted, but it is not absolutely sure. That is what it does as a practical matter.

What it does, as a more significant point—and this is the whole purpose of the regulation besides making sure we raise that threshold from \$8,000 to \$23,400—what it does is try to put certainty and definition into the law.

Unfortunately, the law as it has presently evolved over the last 50 years with all this regulation, regulatory changes, and all the court decisions has really become a Byzantine morass. It is not clear. There is gray area everywhere and everything is getting litigated. It is the fastest area of lawsuit growth in the area of labor law. Class action suits are being brought left and right. The practical impact of that is employers and employees are suffering because of it. Resources which should be used to give employees better benefits and to expand businesses so more people could be hired are being used to defend lawsuits to try to figure out whether this person's job is a job that involves overtime or is not a job that involves overtime, fending off lawsuits left and right, and, as a result, we end up with the misallocation of resources, fewer jobs being created and fewer benefits being paid because the dollars are going out to attorneys who are pursuing these lawsuits because the law is not clear. I don't say the lawsuits should not be brought but they are brought because the law is not clear.

The Department of Labor has said they will clarify that and put certainty in here. That is exactly what they have done with this regulation. They have made it clear and more certain as to who has the right to overtime and how those rights evolve. They have done such a good job of eliciting 830,000 comments that even the Washington Post has decided this regulation should go forward, or thinks this regulation should go forward.

Now the Senator from Iowa comes forward with another amendment to try to stall these regulations. I am not

sure what the momentum is behind that because, as I just mentioned, the practical effect of stalling these regulations will mean that 6.7 million people who are going to get their overtime issue clarified and are going to be guaranteed overtime will have that put at risk, although his amendment tries to address that. To the extent this remains uncertain through this legislative process, obviously things aren't going to happen as effectively as they should.

Secondly, his amendment essentially goes back to a situation where we are looking at the old law. We are going to go back to the old law to define how an individual's overtime is paid or whether they have a right to it. It juxtaposes the old law and the new law. So now an old law, which was already grossly Byzantine, complex, and unclear, is going to be brought back into play on top of the new regulations. The practical effect is, we will have even more litigation, and we will have to do it by individual jobs.

There is no attempt to address the overall issue in a comprehensive and systematic way. Instead it says, here is a jump ball. You, the individual, are going to have to look at the old law, the new law, and then you the individual and you the individual employer are going to have to figure out what you are doing with the old law and the new law before you can figure out what your overpayment is going to be.

The practical implication will be you are going to see a class ceiling. You are going to have a ceiling because no employer is going to be willing to move anybody into any position of any responsibility from where they are already because they aren't going to know what effect that is going to have on that individual's overtime. They are going to be buying a lawsuit.

If you are a clerk working in a business somewhere and you suddenly start to be promoted into a position of maybe taking over some responsibility and making decisions on who gets what or who doesn't get what in the area that you have your responsibility within your activity within that business, you are going to immediately be putting that business and that company into the issue of whether you have a right any longer to overtime. It is going to be an individual decision that company has to make on you, the person who is getting more responsibility. What is the practical effect of that?

That business, that company is going to say, we don't need that lawsuit. We are going to go out and hire a new person to do these new duties who we know won't be subject to any sort of issues relative to overtime. And you, the person who maybe worked your way up through the system and have gotten to a point where the people you work with have confidence in you, they are not going to give you that promotion or added responsibility because they are not going to want to risk the cost of a lawsuit that may come with it.

You are going to create a class ceiling in the whole system as a result of basically throwing into play again this whole concept of individuals and old law, which is totally gray, and the new regulations. It will be chaos in the area of who is and who is not exempt from overtime, if the Harkin amendment is passed.

So we are offering an alternative. If there is an issue as to any group as to whether they get overtime, we are going to try to clarify it once and for all. There have been about 55 groups who have come forward and said they feel they may be an issue. We don't think most of them are because we think the regulation is pretty clear for most of these groups that they basically retain their right to overtime. But just so there can be no question about it, this amendment specifically names every one of those groups and says they have the right to overtime at a minimum. They have the right to their present overtime situation. If the new law gives them better, puts them in a better position, they have a right to that. In other words, they either win or they win more.

I want to list some of these groups because this has been the issue. When the rubber hits the road is when each group of people who are going to be impacted get impacted. Some of them have come forward and said, we have concerns. Firefighters had concerns. Cooks had concerns. People who were nurses had concerns. In our opinion, the regulations never impacted those groups, but it is going to be unalterably clear when this amendment passes.

Let me list some of the 55 groups. These occupations or classifications will either get what they get now or they will get anything they might get that is better under the new regulation: Any worker paid on an hourly basis—that is a pretty broad group, a lot of people; blue collar workers—that is a lot of people; any worker provided overtime under a collective bargaining agreement—that would be true anyway, but we are making it absolutely clear; team leaders; computer programmers; registered nurses; licensed practical nurses; nurse midwives; nursery school teachers; oil and gas pipeline workers; oil- and gasfield workers; oil and gas platform workers; refinery workers; steelworkers, shipyard and ship scraping workers; teachers; technicians; journalists; chefs; cooks; police officers; firefighters; fire sergeants; police sergeants; emergency medical technicians; paramedics; waste disposal workers; daycare workers; maintenance workers; production line employees; construction employees; carpenters; mechanics; plumbers; ironworkers—these people are all covered anyway, but we are going to list them—craftsmen; operating engineers; laborers; painters; cement masons; stone and brick masons; sheet metal workers; utility workers; longshoremen; statutory engineers; welders,

boilermakers; funeral directors—we may want to stick embalmers under that—athletic trainers; outside sales employees; inside sales employees; grocery store managers; financial services industry workers; route drivers; assistant retail managers.

So this amendment basically, once again, goes to the fundamental goal of this regulation, beyond expanding the people who have an absolute right to overtime, which, by raising the minimum from \$8,000 to \$23,400, this amendment goes to getting clarity, clarity in the law so that instead of having a lot of lawsuits and a lot of churning in the marketplace, we can use resources to pay people overtime and to create new jobs, which is the goal and the purpose of the regulations as they were proposed by the Department of Labor. I think rather than having the Department of Labor out here on a whipping post over the last few days, which it has been regrettably from some Members of the other side, they should be congratulated for doing exactly what they are supposed to do.

They put out a proposed regulation. The regulation was a concept built out of a lot of study and effort. Granted, it wasn't as well thought out as it might have been. I had reservations about the regulation. But at the time I said, let's wait until we see the final regulation before we make any final calls.

Then they listened to the commentary, 80,000 comments, hundreds of meetings with stakeholders. They had lots of input from organized labor. They significantly pared back, sifted off, sugared off their proposal and have designed a regulation which makes basic good sense, which is that people with low incomes will be guaranteed overtime up to \$23,400, and people who fall above that income level will have a much more defined understanding of whether they have overtime. We will not have all this lawsuit confusion and activity which is so draining on the efficient use of capital.

But to make it absolutely clear, beyond question, that any of the categories who were in issue and who had a concern during the comment period will get the best treatment possible, either under the old law or the new law, we have added this amendment as collateral to the exercise.

I think with this amendment, people can vote with absolute confidence on the regulations and support the initiative of these regulations, which is to make the marketplace fairer for workers.

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

The PRESIDING OFFICER. The clerk will report.

The journal clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 3111.

Mr. BAUCUS. 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:

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

At the appropriate place, insert the following:

SEC. ____ . PROTECTION OF OVERTIME PAY.

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

“(k)(1) The Secretary shall not promulgate any rule under subsection (a)(1) that exempts from the overtime pay provisions of section 7 any employee who earns less than \$23,660 per year.

“(2) The Secretary shall not promulgate any rule under subsection (a)(1) concerning the right to overtime pay that is not as protective, or more protective, of the overtime pay rights of employees in the occupations or job classifications described in paragraph (3) as the protections provided for such employees under the regulations in effect under such subsection on March 31, 2003.

“(3) The occupations or job classifications described in this paragraph are as follows:

- “(A) Any worker paid on an hourly basis.
- “(B) Blue collar workers.
- “(C) Any worker provided overtime under a collective bargaining agreement.
- “(D) Team leaders.
- “(E) Computer programmers.
- “(F) Registered nurses.
- “(G) Licensed practical nurses.
- “(H) Nurse midwives.
- “(I) Nursery school teachers.
- “(J) Oil and gas pipeline workers.
- “(K) Oil and gas field workers.
- “(L) Oil and gas platform workers.
- “(M) Refinery workers.
- “(N) Steel workers.
- “(O) Shipyard and ship scraping workers.
- “(P) Teachers.
- “(Q) Technicians.
- “(R) Journalists.
- “(S) Chefs.
- “(T) Cooks.
- “(U) Police officers.
- “(V) Firefighters.
- “(W) Fire sergeants.
- “(X) Police sergeants.
- “(Y) Emergency medical technicians.
- “(Z) Paramedics.
- “(AA) Waste disposal workers.
- “(BB) Day care workers.
- “(CC) Maintenance employees.
- “(DD) Production line employees.
- “(EE) Construction employees.
- “(FF) Carpenters.
- “(GG) Mechanics.
- “(HH) Plumbers.
- “(II) Iron workers.
- “(JJ) Craftsmen.
- “(KK) Operating engineers.
- “(LL) Laborers.
- “(MM) Painters.
- “(NN) Cement masons.
- “(OO) Stone and brick masons.
- “(PP) Sheet metal workers.
- “(QQ) Utility workers.
- “(RR) Longshoremen.
- “(SS) Stationary engineers.
- “(TT) Welders.
- “(UU) Boilermakers.
- “(VV) Funeral directors.
- “(WW) Athletic trainers.
- “(XX) Outside sales employees.
- “(YY) Inside sales employees.
- “(ZZ) Grocery store managers.
- “(AAA) Financial services industry workers.
- “(BBB) Route drivers.
- “(CCC) Assistant retail managers.

“(4) Any portion of a rule promulgated under subsection (a)(1) after March 31, 2003, that modifies the overtime pay provisions of section 7 in a manner that is inconsistent

with paragraphs (2) and (3) shall have no force or effect as it relates to the occupation or job classification involved.”.

Mr. BAUCUS. Mr. President, I yield 3 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 3112

Mr. GRAHAM of Florida. Mr. President, I will soon be offering an amendment which, it is my understanding, will be debated later today. As I look at the JOBS bill before us, it seems to me that it has several purposes. At least two of those purposes are, one, to repeal the current law which has been found by the World Trade Organization to be in violation of its standards and, as a result, has caused retaliatory tariffs to be applied against certain of our American products.

A second objective of the JOBS bill is to encourage the maintenance and creation of jobs in the United States of America. The amendment will strike certain provisions of this proposed law. It will strike the manufacturers' deduction and changes in the international tax law. Then it uses the funds that are released by that action to provide for a manufacturing employers' credit on income tax, based on the payroll tax of those manufacturing employers.

In my judgment, this alternative better targets the tax incentive to jobs in the United States of America. The incentives in the underlying bill are based on corporate profits, not American employment, which I believe makes them less efficient, less effective, and significantly less likely to fulfill its title, "JOBS."

I will have more to say about this amendment and the concerns we have about the underlying proposal later today when we debate this amendment in detail.

Mr. GRAHAM of Florida. Mr. President, I send to the desk an amendment and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The journal clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 3112.

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

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

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Massachusetts, with the understanding that I will work to get more time for him. For the time being, I yield him 10 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I urge my Senate colleagues to support the amendment of the Senator from New Hampshire when we come about doing this. I want to say it is not much to bargain, because one of the principal arguments the Senator from New Hampshire has made is by listing these

55 new categories, that will provide clarification. To the contrary, it will provide additional litigation because the test in the Department of Labor refers to the duties and not to the professional names that are being used.

So if you have a cook or a chef, does that apply to somebody just cooking the food or someone at the salad bar who also considers themselves to be included? Plus, there are additional people who have not been included as well.

This is a continuation of a misguided policy. We heard in March of last year from the Department of Labor, under the guise they were trying to streamline the process and procedure. They issued their regulations and said only 644,000 people would be affected. Then we find there were going to be 8 million who would lose overtime. So the administration retreated on that. Then they promulgated their recent legislation. Just this morning, Tammy McCutcheon from the Department of Labor said nobody will lose overtime between \$23,660 and \$100,000. That is this morning.

Then we have the Senate Republicans' alleged position to make sure 55 categories, which are basically categories above \$23,660 and below \$100,000, will be protected. We are not sure what this is all about. We know there is going to be a cut in overtime for hard-pressed working families in America. That is what will be the result.

Let's look at where the record is with regard to middle-income working families. We know there has been a loss of some 2 million jobs under this administration. It is not only the loss of jobs, it is the fact the existing jobs have lost income over the last 2 years. We have seen the loss of real income in those jobs that exist by about \$1,300.

Let's look at this fact. The new jobs being created are paying 21 percent less. This chart shows between 2000 and 2002, we have had a real loss in wages for existing jobs. If you look at the new jobs being created, they are paying, on average, 21 percent less. In New York, it is 38 percent less. So workers are working longer, working harder, and they are making less income even today.

The cost of the things they are purchasing is going right up through the roof. If you look at the squeeze for middle-income families, this chart illustrates it. There is an increase in childcare of 100 percent. In recent years, an increase of 60 percent in health insurance. In the last 5 years, mortgage payments have increased 69 percent. Here we find middle-income, working families, with a loss of 2 million jobs. Those who are still working have a loss of income. For individuals who are able to get jobs, they are seeing new jobs paying 21 percent less.

Look what is happening to them in terms of the expenses for middle-income America. Childcare is going up through the roof, health insurance is going up through the roof, mortgages are going up through the roof, and edu-

cation for their children is going right up through the roof.

During the Bush years, the middle-class family squeeze has tightened. This is a net loss of 2 percent in real purchasing terms in wages between 2000 and 2004. Home prices are up 18 percent; health and other insurance, as I mentioned, is up 50 percent; tuition, in 5 years, has gone up 35 percent; utilities have gone up 15 percent.

Everything has been going up except the income of working families. And we have an administration that is opposed to an increase in the minimum wage, which has not increased in 7 years; an administration that is opposed to extending unemployment compensation, and 85,000 American workers are losing their extended unemployment compensation every week.

Now the administration is taking away overtime at the direct request of a number of industries. We know what this is all about. We have the requests from the various industries. The National Restaurant Association requests the Department of Labor include chefs under the creative professional category as well as the learned professional category. Look what happens when DOL puts out their regulation:

The Department concludes that to the extent a chef has a primary duty of work requiring invention, imagination, originality, or talent, he will be considered exempt from overtime.

Thank you very much, National Restaurant Association.

How dare those opposed to this proposal say this is for simplification. We know what this is all about.

For example, in the insurance industry, here is what this says:

The National Association of Insurance Companies supports the section of the proposed regulation providing that claims adjusters, including those working for insurance companies, satisfy the administrative exemption.

That is the what the National Association for Mutual Insurance Companies wrote to the Department. Sure enough, look at what happened when the administration promulgates its regulation:

Insurance claims adjusters generally meet the duties requirements for the administrative exemption.

Thank you very much to the insurance companies.

You talk about simplification—we know what is going on. These are special interests that are trying to enhance the bottom line.

We can go on with industry after industry. Let's look at what has happened now in the period of the last 4 years. Here we find a Wall Street recovery that leaves Main Street behind. Here it is. Corporate profits. There has been a 57.5-percent increase in corporate profits, but in workers' wages, it was 1.5 percent.

Do we understand that? Here we have corporate profits of 57.5 percent and workers' wages of 1.5 percent. Now the administration says workers are getting paid too much. We have to do something about overtime.

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator has 6 minutes.

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

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

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

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

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

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

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

RECESS

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

Thereupon, the Senate, at 12:26 p.m. recessed until 2:15 p.m., and reassem-

bled when called to order by the Presiding Officer (Mr. VOINOVICH).

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT—Continued

The PRESIDING OFFICER. The Senator from California.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

IRAQ

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

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

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

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

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

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

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

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

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

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

Backing up a little bit, this administration didn't want us to see the pictures of the flag-draped coffins. Seven stations from Sinclair Broadcasting

Group barred viewers from hearing the names of our fallen heroes. The Sinclair Broadcasting Group is a big supporter of this administration.

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

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

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

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

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

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

We need to measure the dollar cost of this war. So far we have spent \$133 billion on the Iraq war, while we struggle to find the means to do what we must at home, for our children, for our

health, for our environment. I have a quick list. We have spent \$133 billion on this war since March of 2003.

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

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

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

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

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

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

The PRESIDING OFFICER. Is there objection?

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

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

Who yields time?

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

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

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

Mrs. BOXER. More than 3,000.

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

Mrs. BOXER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wyoming.

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

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

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

The Senator from Iowa has proposed keeping the trial lawyers' dream. He

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

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

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

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

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

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

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

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

they listened to the comments on this floor, and they made those revisions in the rule before they published the final rule. The Department of Labor carefully considered those 75,000 comments. They listened to the concerns of the American people, and then they did the final overtime rule and they made substantial changes to the proposal.

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

I ask unanimous consent that a copy of the letter be printed in the RECORD.

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

U.S. SENATE,

Washington, DC, April 16, 2004.

Hon. ELAINE L. CHAO,

Secretary of Labor, U.S. Department of Labor,
200 Constitution Avenue, NW., Washington,
DC.

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

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

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

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

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

Sincerely,

MICHAEL B. ENZI,
SUSAN M. COLLINS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

When I am back in Wyoming, I like to hold town meetings to find out what

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

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

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

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

By undermining the Department's efforts to better protect lower income workers, who is this amendment going to protect? The Department determined that few, if any, employees earning between \$23,660 and \$100,000 will

lose their overtime pay under the new rule. The Department estimates that 107,000 employees who are earning over \$100,000 could—could but not necessarily would—lose their overtime. Could our colleagues be willing to deny overtime pay for an additional 1.3 million low-wage workers in order to protect the overtime for the 107,000 workers earning above \$100,000? Is Congress going to undermine the purpose of the Fair Labor Standards Act, which is to protect low-wage workers?

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

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

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

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

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

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

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

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

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

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

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

The blocking amendment creates a two-tiered scheme which would require two different tests to determine a

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

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

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

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

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

[From the Washington Post, May 4, 2004]

OVERTIME IMPROVEMENT

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

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

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

The Labor Department's changes would guarantee overtime rights for workers who earn less than \$23,660 a year, even if they are ostensibly white-collar. That's up from the

current, woefully outdated level of \$8,060 and a slight increase over the original proposal. It would have been even better to adjust the salary level to keep pace with inflation (bringing it to about \$28,000) and—given that it took three decades to make this change—to build in indexing for inflation. At the higher end of the income scale, the new rules would make workers who earn more than \$100,000 largely exempt from overtime eligibility, a significant increase from the original proposal, which would have capped overtime rights at \$65,000.

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

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

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

Mr. ENZI. The Washington Post states:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

comes to enhancing worker protections.

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

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

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

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

I urge my colleagues to support the Harkin amendment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

One worker need not sacrifice his overtime pay to guarantee it to an-

other. One worker need not forgo his retirement security or health care security to provide it to another.

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

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

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

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

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

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

programmers. All will be vulnerable to the loss of overtime—and therefore face significant pay cuts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The administration's public relations campaign on this rule does not reflect the reality of this rule. It will deny overtime to millions. It will, despite the administration's claims to the contrary, have a negative effect on veterans, on blue collar workers, and on union members. I find it interesting that the Department of Labor's materials for this rule call it "Fair Pay: Overtime Security for the 21st Century

Workforce." There is little that is fair about this rule for the millions of workers who are poised to lose their overtime pay if this rule takes effect as scheduled in August.

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

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

I urge support for the Harkin amendment.

The PRESIDING OFFICER. Who yields time?

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

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

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

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

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

Who yields time?

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

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

sult based upon a fuller understanding of this proposed regulation.

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

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

I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

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

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

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

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

You don't have to have a Ph.D in economics to know what is going on with families and their incomes today and their abilities to make ends meet. It was reported a few years ago how much of the income families earn can be put aside for savings, or that they could apply to college tuition for their children in the future. Today we know the ability of the middle-income family to save, put money aside, and purchase necessary items for their families has

been severely restricted. This is yet one further attempt to make it more difficult for these families who need the extra overtime pay to make ends meet.

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

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

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

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

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

The PRESIDING OFFICER. Who yields time?

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

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

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

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

The PRESIDING OFFICER. The Senator is correct.

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

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

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

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

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

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

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

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

Technicians, what is a technician? There is no definition of a technician. The Gregg amendment covers funeral directors, but how about embalmers? We don't know. It looks as though the

Gregg amendment was hastily put together. What they did was list 55 people we have talked about on the floor, but they exclude 834 others. That is a real problem.

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

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

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

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

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

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

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

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The minority has 7½ minutes.

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

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

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

The PRESIDING OFFICER. The Senator will be notified.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. One minute.

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

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

Is the Senator seeking recognition?

Mr. BAUCUS. No.

The PRESIDING OFFICER. The Senator from New Hampshire.

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

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

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

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

We are trying to make it a more understandable playing field. Remember, the Department of Labor put out a pro-

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Iowa.

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

The PRESIDING OFFICER. The Senator has 37 seconds.

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

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

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

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

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

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

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

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

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

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

SEC. 455. MANUFACTURER'S JOBS CREDIT.

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

"SEC. 455. MANUFACTURER'S JOBS CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the manufacturer's jobs credit determined under this section is an amount equal to 50 percent of the lesser of the following:

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

"(2) The W-2 wages paid by the taxpayer during the taxable year to any employee who

is an eligible TAA recipient (as defined in section 35(c)(2)) for any month during such taxable year.

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

"(b) LIMITATION.—

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

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

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

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

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

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

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

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

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

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

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

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

"(d) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

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

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

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

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

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

"(31) the manufacturer's jobs credit determined under section 455."

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

"Sec. 455. Manufacturer's jobs credit."

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

On page 335, line 8, strike “December 31, 2004,” and insert “May 31, 2004”.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be. The yeas and nays were ordered.

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

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

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 3111

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

The legislative clerk called the roll.

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

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

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

[Rollcall Vote No. 78 Leg.]

YEAS—99

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

NOT VOTING—1

Kerry

The amendment (No. 3111) was agreed to.

AMENDMENT NO. 3107

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

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

The assistant legislative clerk called the roll.

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

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

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

[Rollcall Vote No. 79 Leg.]

YEAS—52

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

NAYS—47

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

NOT VOTING—1

Kerry

The amendment (No. 3107) was agreed to.

Mr. KENNEDY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

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

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

AMENDMENT NO. 3109, AS MODIFIED

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

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

The amendment, as modified, is as follows:

At the end of the bill, add the following:

TITLE IX—TRADE ADJUSTMENT ASSISTANCE

Subtitle A—Service Workers

SEC. 911. SHORT TITLE.

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

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

(a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Section 221(a)(1)(A) of the Trade Act of

1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking “firm” and inserting “firm, and workers in a service sector firm or subdivision of a service sector firm or public agency”.

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

(1) in subsection (a)—

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

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

(C) in paragraph (2)—

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

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

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

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

(2) in subsection (b)—

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

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

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

(3) in subsection (c)—

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

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

(B) in paragraph (3)—

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

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

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

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

(C) in paragraph (4)—

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

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

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

“(d) BASIS FOR SECRETARY’S DETERMINATIONS.—

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

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

the workers' firm, subdivision, or public agency.

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

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

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

(1) in paragraph (1)—

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

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

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

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

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

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

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

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

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

(a) FIRMS.—

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

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

(B) in subsection (c)(1)—

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

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

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

(C) by adding at the end the following:

"(e) BASIS FOR SECRETARY DETERMINATION.—

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

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

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

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

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

(B) by adding at the end the following:

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

(b) INDUSTRIES.—Section 265(a) of the Trade Act of 1974 (19 U.S.C. 2355(a)) is amend-

ed by inserting "or service" after "new product".

SEC. 914. MONITORING AND REPORTING.

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

(1) in the first sentence—

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

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

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

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

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

(2) by adding at the end the following:

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

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

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

SEC. 915. ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE.

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

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

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

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

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

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

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

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

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

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

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

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

(b) FISHERMEN.—Notwithstanding any other provision of law, for purposes of chapter 2 of title II of the Trade Act of 1974 (19

U.S.C. 2271 et seq.) fishermen who harvest wild stock shall be eligible for adjustment assistance to the same extent and in the same manner as a group of workers under such chapter 2.

SEC. 917. EFFECTIVE DATE.

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

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

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

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

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

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

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

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

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

Subtitle B—Data Collection

SEC. 921. SHORT TITLE.

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

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

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

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

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

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

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

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

"(B) the time for processing petitions;

"(C) the number of training waivers granted;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(d) REPORTS.—

“(1) REPORTS BY THE SECRETARY.—

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

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

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

“(iii) provides recommendations for program improvements.

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

“(2) STATE REPORTS.—Pursuant to regulations prescribed by the Secretary, each State shall submit to the Secretary a report that details its participation in the programs established under this chapter, and that con-

tains the data necessary to allow the Secretary to submit the report required under paragraph (1).

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

(b) CONFORMING AMENDMENTS.—

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

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

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

“Sec. 250. Data collection; evaluations; reports.”.

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

Subtitle C—Trade Adjustment Assistance for Communities

SEC. 931. SHORT TITLE.

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

SEC. 932. PURPOSE.

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

SEC. 933. TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.

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

“CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

“SEC. 271. DEFINITIONS.

“In this chapter:

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

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

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

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

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

“(6) FISHERMAN.—

“(A) IN GENERAL.—The term ‘fisherman’ means any person who—

“(i) is engaged in commercial fishing; or

“(ii) is a United States fish processor.

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

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

“(8) SECRETARY.—The term ‘Secretary’ means the Secretary of Commerce.

“SEC. 272. COMMUNITY TRADE ADJUSTMENT ASSISTANCE PROGRAM.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“SEC. 273. CERTIFICATION AND NOTIFICATION.

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

“(b) DETERMINATION THAT COMMUNITY IS ELIGIBLE.—

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

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

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

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

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

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

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

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

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

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

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

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

“(c) DEFINITION AND SPECIAL RULES.—

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

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

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

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

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

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

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

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

“(2) of the provisions of this chapter;

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

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

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

“SEC. 274. STRATEGIC PLANS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“SEC. 275. GRANTS FOR ECONOMIC DEVELOPMENT.

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

“(b) ADDITIONAL GRANTS.—

“(1) IN GENERAL.—Subject to paragraph (2), in order to assist eligible communities to ob-

tain funds under Federal grant programs, other than the grants provided for in section 274(c) or subsection (a), the Secretary may, on the application of an eligible community, make a supplemental grant to the community if—

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

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

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

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

“SEC. 276. GENERAL PROVISIONS.

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

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

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

SEC. 934. CONFORMING AMENDMENTS.

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

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

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

“CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

“Sec. 271. Definitions.

“Sec. 272. Community Trade Adjustment Assistance Program.

“Sec. 273. Certification and notification.

“Sec. 274. Strategic plans.

“Sec. 275. Grants for economic development.

“Sec. 276. General provisions.”.

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

SEC. 935. EFFECTIVE DATE.

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

Subtitle D—Office of Trade Adjustment Assistance

SEC. 941. SHORT TITLE.

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

SEC. 942. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

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

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

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

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

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

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

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

SEC. 943. EFFECTIVE DATE.

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

- (1) the date of the enactment of this Act; or
- (2) October 1, 2004.

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

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

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

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

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

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

"(C) TAA-ELIGIBLE INDIVIDUALS.—

"(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the

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

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

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

"(C) TAA-ELIGIBLE INDIVIDUALS.—

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

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

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

"(D) TAA-ELIGIBLE INDIVIDUALS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(1) USE OF FUNDS.—

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

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

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

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

"(I) eligibility verification activities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 1007. NOTICE REQUIREMENTS.

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

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

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

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

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

SEC. 1008. ANNUAL REPORT ON ENHANCED TAA BENEFITS.

Not later than October 1 of each year (beginning in 2004) the Secretary of the Treasury, after consultation with the Secretary of Labor, shall report to the Committee on Fi-

nance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Education and the Workforce of the House of Representatives the following information with respect to the most recent taxable year ending before such date:

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

(A) by State, and

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

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

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

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

TITLE XI—MORTGAGE PAYMENT ASSISTANCE

SEC. 1101. SHORT TITLE.

This title may be cited as the “Homestead Preservation Act”.

SEC. 1102. MORTGAGE PAYMENT ASSISTANCE.

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

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

(1) be—

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

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

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

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

(c) LOAN REQUIREMENTS.—

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

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

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

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

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

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

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

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

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

(d) REPAYMENT.—

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

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

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

(2) REPAYMENT PERIOD AND AMOUNT.—

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

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

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

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

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

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

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

TITLE XII—MISCELLANEOUS

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Nevada.

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

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

Mr. GRASSLEY. Yes.

AMENDMENT NO. 3114

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

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

The assistant legislative clerk read as follows:

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

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

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

The amendment is as follows:

(Purpose: To extend the Temporary Extended Unemployment Compensation Act of 2002, and for other purposes)

At the end, add the following:

TITLE —UNEMPLOYMENT COMPENSATION

SEC. —01. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

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

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

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

(3) in subsection (b)(2)—

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

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

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

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

SEC. —02. ADDITIONAL REVISION TO CURRENT TEUC-X TRIGGER.

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

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

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

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

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

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

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

SEC. —03. TEMPORARY STATE AUTHORITY TO WAIVE APPLICATION OF LOOKBACKS UNDER THE FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970.

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

AMENDMENT NO. 3109, AS MODIFIED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from Minnesota.

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

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

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

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

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

There were two other issues that came up today that I want to make very clear what the facts are to my col-

leagues. No. 1, there has been discussion about retroactivity. It has been mentioned along the way that we are going to provide retroactivity for 10 years or 12 years. No. TAA was established—if we go back, I believe it was 2 years in two limited circumstances, service workers being the principal one, but it is not 12 years of retroactivity.

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

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

The PRESIDING OFFICER. The Senator has 2½ minutes.

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

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

The Senator from Iowa.

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

The PRESIDING OFFICER. The Chair will notify the Senator.

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

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

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

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

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

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

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

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

We also made a number of other changes to the program, including consolidating trade adjustment assistance programs, increasing the funding cap for training, increasing the job search

allowance, establishing a new unprecedented wage insurance program for older workers, and establishing a new Federal health subsidy, a health tax credit to help dislocated workers and pension recipients get health coverage.

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

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

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

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

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

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

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

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

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

The program may be pushed to the breaking point.

That is the third time I have said it.

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

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

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

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

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

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

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

That information will be coming in the very near term.

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

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

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

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

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

They go on to say:

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

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

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

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

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

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

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

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

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

I urge my colleagues to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

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

The PRESIDING OFFICER. Seven minutes.

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

The PRESIDING OFFICER. The Senator from Minnesota.

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

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

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

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

I urge my colleagues to support this amendment.

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

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

Second, as to the Business Roundtable supporting this amendment, I

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

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

The PRESIDING OFFICER. The Senator from Oklahoma.

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

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

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

Mr. NICKLES. I am asking a question.

Mr. WYDEN. Same as current law.

Mr. NICKLES. That is how many weeks?

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

Mr. WYDEN. That is current law.

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

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

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

Mr. WYDEN. Will the Senator yield?

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

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

Now let's look at a couple of other provisions in the bill. This bill says we will take the present program and ex-

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

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

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

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

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

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

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

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

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

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

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

Mr. NICKLES. How much time remains?

The PRESIDING OFFICER. The majority controls 10 additional minutes.

The Senator from Oregon controls 1 minute.

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

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

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

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

Mr. NICKLES. That is correct.

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

Mr. NICKLES. Mr. President, I agree.

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

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

It also would benefit those people who say: Wait a minute. I lost my job. I lost my job because now that job is being done in India. Maybe somebody is a programmer or maybe somebody is a computer programmer or maybe they are a telephone solicitor and now maybe that job is being done some in the States and some overseas. But the company had a tough time. Maybe it is a telecommunications company and they reduced their employment. But there happens to be some employment overseas. You could see a whole lot of people saying: My job was lost because it went to India, because it went to China. Therefore, even though I have only worked there for 26 weeks out of the last year, pay for my health care

for the next 2 years, Uncle Sam. And yes, I want unemployment compensation for the next 2 years. Thank you very much. And incidentally, I want cash. Give me \$5,000 cash for the next 2 years.

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

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

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

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

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

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

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

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oregon.

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

be eligible for the program are going to get the same opportunities as those in the manufacturing sector, the same number of weeks.

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

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

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

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

It is undeniable that the process of globalization has created dramatic shifts in the job opportunities available for American workers.

It is unwise to assume the labor market will adjust by itself. I firmly believe that Congress must look carefully at where we are going and what we should be doing to remain competitive in the future.

Two years ago the Senate passed an expanded Trade Adjustment Assistance Program as part of the Trade Act of 2002. I introduced that trade adjustment assistance legislation with Senators BAUCUS, DASCHLE, ROCKEFELLER, and a number of other colleagues as original co-sponsors.

Included in that legislation were a range of provisions that we considered to be essential to any effective TAA system—TAA for service workers, TAA for shifts in production to all countries, TAA for communities, TAA data collection, wage insurance, significant health care coverage for workers, and so on.

Unfortunately, all of these provisions were either outright deleted or seriously narrowed when the legislation went to conference.

The amendment today remedies that mistake. It recognizes that the United States does face an immediate problem related to negative impacts from trade and we need to better prepare workers for the future. Significantly, it recognizes that long-term trade policies have short-term costs for Americans and puts in place a coherent strategy to give them the skills required for job security.

I have said this before and I say it again because it matters: Contrary to the assertions of some of my colleagues, we cannot measure the success of our trade policy only by the cost of

the products we buy. We also have to look at whether our workers are more economically secure.

By this I mean whether they have a high-wage job, whether they can buy a home, whether they can afford an education for their children, whether they can afford health insurance, and whether they have retirement security. Without these things, we are poor by any measure.

I have always argued that while strong trade agreements lie at the core of a coherent trade strategy, an effective TAA program is essential for our country. It is a fair and appropriate approach for those American workers who lose their jobs as a result of trade. American workers are not looking for handouts. They are looking for a step-up to something better. They are looking for a chance to provide for their families and contribute to our country's economic welfare.

This amendment offers them a chance to do just that. It is common sense, and it is the least we can do for our neighbors and friends back home.

It is time to do what has to be done to get this legislation passed. There is too much at stake for American workers and communities to wait any longer.

Ms. SNOWE. Mr. President, I rise today to join my colleagues, Senators WYDEN, COLEMAN, BAUCUS, BROWNBACK, and ROCKEFELLER to offer an amendment in recognition of the critical need to provide economic development assistance to Americans across this nation that have been negatively impacted by trade. Trade Adjustment Assistance—TAA—programs are essential in bringing short-term financial and retraining assistance to workers who have been displaced due to imports or shifts in production. I have long supported the TAA program as it has helped those in Maine and across the Nation who are unemployed because of trade to find new employment and gain the appropriate skills these new jobs require, and this amendment builds upon this crucial program.

What we have before us is an amendment which recognizes that our desire to trade should be balanced with our ability to assist those adversely affected by trade. Our amendment is a comprehensive package of TAA improvements and additions that further seeks to better the conditions for America's workers and communities who find themselves negatively impacted in the wake of rapid international trade liberalization.

Our amendment contains provisions to assist trade-impacted communities similar to those included in my bill, The Trade for America's Communities Act, which I introduced last year. My legislation gives the Department of Commerce the authority to use the revenue collected from tariffs—which currently goes to corporations—to provide technical assistance to communities that have been negatively impacted by trade. The bill—and portions

of this amendment—helps communities to develop strategic plans that would focus on the creation and retention of jobs and to promote economic diversification.

Our amendment also makes critical TAA changes in relation to the service sector. We need to recognize that trade affects not just manufacturing sectors of the economy, but service industries as well. Current TAA provisions cover manufacturing workers but exclude the 80 percent of American non-farm jobs in the service sector. Our amendment makes existing TAA benefits available to service workers whose jobs move overseas and increases training funds to match anticipated enrollment. This provision is sorely needed in places like Lewiston, ME, where 84 service sector layoffs occurred at the ICT call center, or 30 workers at Prexar in Bangor, ME—all service sector workers.

When you start adding these types of layoffs to that of production in small towns across the country, the impact is sizable, making the distinction between service and production workers irrelevant. These dynamic changes that are outgrowths of trade are similar to technological advances in productivity that leave workers out of jobs, or plants out of operation.

Beyond these provisions, the amendment also provides important improvements to the refundable health care tax credit for laid-off workers and retirees that was originally created in 2002 as part of the Trade Promotion Authority Act.

Two years ago, I was proud to work closely as a member of the Finance Committee with Chairman BAUCUS and Senator GRASSLEY to create the HCTC as a means for displaced workers to continue receiving the health care benefits they lost as a consequence of trade. I worked to bring this benefit to fruition to help these displaced workers get the health coverage they need when faced with the loss of employment because the assistance option at that time, namely COBRA, was too expensive to be feasible. I will continue my efforts to see that it is properly administered and adequately received by TAA-certified beneficiaries. There have been countless situations prior to introducing the HCTC where the workers were left without health care insurance, and this is a situation that we have only begun to remedy by creating the HCTC.

Unfortunately, recent studies have demonstrated that the tax credit has not been widely utilized by workers. Just last month, the U.S. Department of Labor reported that only about 10 percent of workers certified under the TAA program have applied for the health care tax credit since its enactment. In fact, according to Blue-Cross/Blue-Shield, only about 100 people in Maine are signed up for the HCTC.

In 2002, the original Senate version that I worked on called for a 75 percent HCTC benefit. Unfortunately this benefit was reduced to 65 percent in con-

ference. That is why I am pleased that our amendment today will restore this benefit to its originally proposed level. This adjustment to the HCTC will allow more TAA-certified workers to take advantage of the tax credit by making health care more affordable as they seek new employment. As many of my colleagues would agree, TAA-certified workers may still find it difficult to cover 25 percent of the cost of premiums, but it is surely a step in the right direction to making the HCTC more accessible.

This past February, I met with union members in my state who were laid off as a result of the shutdown of the Eastern Pulp and Paper mills in Lincoln and Brewer, ME, to talk about their needs. During the meeting, I heard first hand that the 35 percent of the cost of the health insurance premiums under the HCTC program is still too high when most displaced workers are only receiving a maximum of \$292.00 per week in unemployment insurance—and premiums can be as high as \$559.91 per month for an individual and as high as \$1,483.75 for a family. The union officials also informed me that in the case of the Brewer, ME, mill, of the 350 employees affected by the shutdown, only 6 took advantage of the HCTC. Frankly, if the credit is unworkable and unattainable, then there is no point in having it in the first place. This cost is a real stumbling block for displaced workers, and we must look at this program on a basic level of affordability for impacted individuals.

Another problem that was identified to me during this meeting is that the statute is unclear and too restrictive. This has made administration of the credit difficult. For example, while the HCTC is refundable, the IRS currently does not advance the first month's tax credit, which means the displaced worker must pay for the entire health care premium the first month—100 percent of the cost. This, in many cases, causes the worker to not take advantage of the HCTC because they simply cannot afford that first payment. In the case of the Eastern Pulp and Paper mills, a worker and his or her spouse would have to come up with \$1,500 that first month. Clearly this would turn a prospective beneficiary away right at the beginning. The need to streamline the administrative process of the HCTC is paramount to making it more accessible.

We attempt to remedy this situation in this amendment by improving access to the credit as well as making it more effective. Not only does the amendment increase the credit percentage from 65 percent to 75 percent of the individuals' health care premiums, but it also instructs the IRS to provide an expedited refund of the first month's tax credit. Workers in my home state of Maine who are being laid off have told me that they just cannot afford the cost of health insurance. This amendment will make health care more accessible for this population.

Beyond expanding the size of the credit, our amendment also provides important outreach initiatives to get the word out to eligible workers about the existence of the credit. For example, the amendment allows states, to use funds from a National Emergency Grant, to provide outreach and marketing to inform individuals of the available health insurance options, including low cost options, that qualify for the health care tax credit. Maine has already done this with great success which is a testament to why we need to make this a viable option nationwide. While this may seem like a simple change, it is one of great impact, as too many eligible workers are unaware that these benefits even exist.

Overall, these reforms to this vital health care tax credit are critical to get workers and retirees the information and the access they need to ensure health insurance coverage.

The cost of this amendment is estimated to be about \$5 billion over the next 10 years for the expanded TAA benefits and the improvements to the health care tax credit for TAA recipients. Our amendment proposes to offset this cost by closing a loophole in the administration of the earned income tax credit—EITC—that is allowing individuals to inappropriately claim refundable tax benefits.

Current, Social Security numbers are provided for to individuals for employment and to obtain Federal and State benefits. Under current law, individuals are required to have a work related Social Security in order to claim the earned income tax credit in every situation but one: individuals who have attained a Social Security number solely in order to gain State benefits.

Currently, the IRS is unable to differentiate between an individual who has a work or non-work related Social Security number. Therefore, individuals who are not working but have a non-work related Social Security number are able to receive EITC without having been qualified to do so.

The offset provision in this amendment would require every individual claiming the EITC to have a Social Security number that is valid for employment. Thus, individuals with non-work related Social Security numbers, regardless of why they were offered, would not qualify.

This provision was included in the President's budget and is estimated to raise about \$5.7 billion over 10 years, by the IRS, Treasury Department and Office of Management and Budget and fully offsets the cost of this amendment by recouping the lost revenue from this unintended loophole in the law.

I understand that there is technical discrepancy between Joint Tax and the Treasury on the scoring of this offset. While its clear that it will provide billions in savings to the Government, I intend to work with Chairman GRASSLEY and Ranking Member BAUCUS to ensure that this entire bill meets the

requirements of the Budget Act and is fully offset according to the Joint Committee on Taxation and the Congressional Budget Office; the official score keepers for Congress, as well as the Department of the Treasury.

The fact is trade results in both the formation of new jobs as well as the loss of others. These assistance programs recognize this reality and help give the American worker the education, training and skills they need to find another job and continue in gainful employment—while at the same time assisting them with the financial means to sustain their families as they pursue the necessary retraining. Since 1997, over 10,000 Mainers have applied for TAA benefits. Clearly the need for these programs is as strong as ever.

In small towns where the livelihood of the local economy depends on one industry, one plant or one company that is suffering under trade liberalization, it can cause devastation when that steel mill, paper mill, or textile mill shuts down. I have personally witnessed time and time again the hardship that trade liberalization policies can cause.

In towns like East Millinocket and Millinocket, ME, where Great Northern Paper went bankrupt; in Waterville, ME, where Hathaway Shirt shut down as a result of shirt production being moved overseas; or most recently the Eastern Pulp & Paper mills in Lincoln and Brewer, ME, local economies were sent into disarray. These closures have a ripple effect throughout the region. Efforts were made in these communities to form transition teams to assist the impacted workers find the assistance resources necessary to survive financially through these difficult times. I helped lead the way to these assistance resources, but I continue to recognize that these communities need much broader assistance. That is just part of the reason I have been so adamant in my support for improvements in Trade Adjustment Assistance.

With the momentum provided by the passage and implementation of Trade Promotion Authority, the President has moved aggressively on an agenda of bilateral, regional and global agreements that promote the liberalization of trade and seek to grow the U.S. economy. As the President has argued, this policy agenda creates new opportunities for prosperity and growth. But in order for this to work, free trade has to be fair and we must be diligent in enforcing the rules to ensure we are operating on a level playing field.

At the same time, we must never forget that opportunities of market access, improved consumer choice, and availability of manufacturing inputs come with the price of transitions, dislocations, and shifts in the U.S. economy. America's workers—both manufacturing and service sector—and communities are often faced with difficult realities in the rapidly changing nature of international trade liberalization.

However, while technological advances are the initiative of private en-

terprise, trade liberalization and enforcement is the chosen policy of government. Change and progress can be good, but we must never ignore or forget those Americans who find themselves unfairly treated in an era of global commerce. Congress must make the difficult decisions to turn these challenges into opportunities for this Nation.

I am proud to be an original cosponsor of this amendment and join my colleagues as we continue to recognize and address the oft-ignored consequences of international trade liberalization. At the end of the day, it is the people and communities of this nation that matter most, and when policies which hurt their economic livelihoods are promulgated by government, it is incumbent upon all of us to find ways to help.

THE PRESIDING OFFICER. Who yields time? The Senator from Montana.

MR. BAUCUS. Mr. President, might I ask how much time is left on both sides?

THE PRESIDING OFFICER. The time of the Senator from Oregon has expired. The Senator from Iowa controls 4 minutes 45 seconds.

MR. BAUCUS. Mr. President, I ask unanimous consent that both sides be given an additional 3 minutes on this amendment.

THE PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDING OFFICER (MR. ALLEN). Who yields time?

MR. BAUCUS. Mr. President, if we go into a quorum call, I ask unanimous consent that the time be divided proportionately.

MR. NICKLES. I object.

THE PRESIDING OFFICER. Objection is heard.

MR. BAUCUS. Mr. President, I will use my time.

MR. President, the point is this. It is quite simple. We in America are faced with immense competitive pressure worldwide. We are concerned about a lot of jobs being lost in America. Some are being lost within America; some are being lost in other countries. It is an offshore issue. It is a big question in America.

There are a lot of Senators here who are trying to address this question but who are trying not to vote for so-called protectionist amendments; that is, amendments which say a company cannot do this or that. I agree with that sentiment. But I also think—and I daresay that most Senators would agree with this next point—that we should do something for our employees who lose their jobs through no fault of their own.

We already have a very small program called trade adjustment assistance for manufacturing industry jobs that are lost on account of trade. We do not provide for service industry workers who lose their jobs on account of trade. Service jobs are lost by a larger margin than in the past simply because so much information in America

is now being digitized and because of the advance of broadband telecommunications. So a lot of service industry jobs—analyzing programs, reading x rays, and other jobs—go overseas from American companies. Orders come over at the speed of light and the product goes back at the speed of light.

What we are saying is this is a constructive, positive response by the Congress to deal with and help those people who lose their jobs on account of trade. It is not a massive program as has been described. Only about 150,000 people qualify today for TAA. Only 5 percent of American workers use it. We are saying just expand it to the service industry. That is not a big expansion. A very small percentage is going to be able to use it.

It has not been pointed out by the other side that you have to be enrolled in a retraining program to use these benefits. The key is to have enough of a benefit so people don't just run off and who want to go into retraining to avoid taking a McDonald's job or some minuscule minimum wage job.

I urge my colleagues to put this in the context of what is really going on and not get sidetracked by a lot of arguments that get down in the weeds but which really don't address the larger issue, which is that this is the one opportunity—and it is very minuscule—to help American workers who lose their jobs, and not only manufacturing but service industry jobs. It is a positive, constructive response; it is not a protectionist response.

I urge my colleagues to support this one chance we have this year.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I just spoke for 30 seconds to get in the point that the Business Roundtable had called the offices of the various sponsors of this amendment saying that the Business Roundtable does not support this amendment. We were also told by the authors that the Information Technology Industry Council supported the amendment. I have had contact, through staff, with a Joe Pasetti of the Information Technology Industry Council, who made it clear they have not taken a position on the Wyden amendment. I think it would be incorrect to quote them as saying they support this amendment.

There are a couple of points I want to make about the points the proponents have made. The proponents, in opening debate, were concerned about the affordability of coverage. Yet their changes will make coverage less affordable. The amendment creates a back door exception to a requirement to have 3 months of coverage. This requirement is consistent with HIPAA standards and was agreed to when we adopted this original expansion of TAA in August 2002.

The changes to the rule will require health insurers to offer coverage to higher risk individuals. Health insur-

ers, like the BlueCross BlueShield plans, will either have to increase premiums or not offer coverage. I have said many times that you ought to be concerned about affordability. The authors of the amendment say they are concerned about affordability, but the amendment will make coverage more unaffordable. Fewer people will be able to use the credit.

Proponents of the amendment also have made the claim that I have referred to before where they said only 5 percent of the people are making use of this new program. Well, what do you expect after just 9 months being operational—just 9 months before the massive expansion of this program? But they refer to this 5 percent. They would make it broader and say we have a low uptake rate and that this signals failure of the program we adopted 2 years ago, which is now just being undertaken for 9 months.

Let me repeat that this program is a very young program. The enrollment numbers only reflect those who have signed up for the advanceable credit. The numbers don't include dependents. The numbers don't include people who claim the credit on their yearend return. We would not even know that yet. Treasury is trying to analyze that data of the people who claimed the yearend credit. Just like I said, we don't have complete data. What would you expect after only 9 months? I hope our colleagues will take this into consideration when looking at a massive expansion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Iowa has 3 minutes 40 seconds. The time of the Senator from Oregon has expired.

The Senator from Oklahoma.

Mr. NICKLES. Will the Senator yield me the remainder of the time?

Mr. GRASSLEY. Yes.

Mr. NICKLES. Mr. President, for the information of my colleagues, we are going to vote in a moment. I have two or three quick comments I want to make. My very good friend from Oregon—and he is my good friend—as he is trying to find another vote said, wait a minute, we should not treat service workers differently than those in manufacturing. I used to run a manufacturing company. Manufacturing, frankly, in this country has been on about a 40-year decline, almost straight, on the number of jobs. The service industry, on the other hand, has been quite volatile, but jobs are increasing—frankly, increasing in lots of different and exciting ways.

But to say we are going to have a Federal benefit if somebody works in a job for 26 weeks and somebody says, I lost my job and I think I lost it because of overseas competition, therefore, I am entitled to 2 years of unemployment compensation, I am entitled

to a refundable, advanceable tax credit, and basically to have the Federal Government pay for my health care—three-fourths of it—for the next 2 years, and to get cash assistance of up to \$5,000 a year for each year, I think is going over board. It costs a lot of money.

The Congressional Budget Office scored this. We just got this. You ask, why? We just got the amendment, so we just got the score from CBO. It says the outlays to this are \$5.3 billion in BA, or obligation authority. The tax credit would cost \$669 million over the next 10 years. The cost is about \$6 billion. According to Joint Tax, it is not paid for.

I don't really think we should have the Federal Government using our resources, which are limited—and we have an enormous deficit—for paying three-fourths of the cost of a worker's health care costs for 2 years because they happened to work for 6 months. I don't think that makes good sense for a lot of reasons. I don't think it makes good sense to lower the eligibility on this wage insurance program and that we are going to pay people \$5,000 a year because they might take a lower paying job. I think that sounds so socialistic. Somebody says that is better than unemployment comp. This is in addition to unemployment comp. So we are going to do unemployment comp, do your health care, give you cash in the meantime, and do your retraining.

I don't think the Federal Government can do it all. This program has grown from 300-some-million dollars in 2001 to \$800 million in 2004. If this amendment passes, it would be a billion dollars plus. I urge my colleagues to vote in favor, of supporting the budget although there may be a motion to waive this pay-go point of order.

I yield back the remainder of my time.

I make a point of order that the amendment offered by my good friend, the Senator from Oregon, Senator WYDEN, increases mandatory spending and, if adopted, would cause an increase in the deficit in excess of the levels permitted in the most recently adopted budget resolution. Therefore, I raise a point of order against the amendment pursuant to section 505 of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, pursuant to section 505(b) of House Concurrent Resolution 95, the concurrent resolution on the budget for fiscal year 2004, I move to waive section 505 of that concurrent resolution for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 45, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—54

Akaka	Dole	Levin
Baucus	Dorgan	Lieberman
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Breaux	Graham (FL)	Nelson (NE)
Byrd	Graham (SC)	Pryor
Cantwell	Harkin	Reed
Carper	Hollings	Reid
Clinton	Inouye	Rockefeller
Coleman	Jeffords	Sarbanes
Collins	Johnson	Schumer
Corzine	Kennedy	Smith
Daschle	Kohl	Snowe
Dayton	Landrieu	Specter
DeWine	Lautenberg	Stabenow
Dodd	Leahy	Wyden

NAYS—45

Alexander	Crapo	McCain
Allard	Domenici	McConnell
Allen	Ensign	Miller
Bennett	Enzi	Murkowski
Bond	Fitzgerald	Nickles
Brownback	Frist	Roberts
Bunning	Grassley	Santorum
Burns	Gregg	Sessions
Campbell	Hagel	Shelby
Chafee	Hatch	Stevens
Chambliss	Hutchison	Sununu
Cochran	Inhofe	Talent
Conrad	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner

NOT VOTING—1

Kerry

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized.

The Senate will be in order.

The Senator from Virginia.

AMENDMENT NO. 3113

Mr. ALLEN. Mr. President, I call up amendment No. 3113.

The PRESIDING OFFICER. The clerk will report the amendment.

The journal clerk read as follows:

The Senator from Virginia [Mr. ALLEN], for himself and Mr. EDWARDS proposes an amendment numbered 3113.

Mr. ALLEN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide mortgage payment assistance for employees who are separated from employment)

At the end add the following:

TITLE IX—HOMESTEAD PRESERVATION ACT

SEC. 901. SHORT TITLE.

This title may be cited as the "Homestead Preservation Act".

SEC. 902. MORTGAGE PAYMENT ASSISTANCE.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Housing and Urban Development (referred to in this section as the "Secretary") shall establish a program under which the Secretary shall award low-interest loans to eligible individuals to enable such individuals to continue to make mortgage payments with respect to the primary residences of such individuals.

(b) ELIGIBILITY.—To be eligible to receive a loan under the program established under subsection (a), an individual shall be—

(1) an individual that is a worker adversely affected by international economic activity, as determined by the Secretary;

(2) a borrower under a loan which requires the individual to make monthly mortgage payments with respect to the primary place of residence of the individual; and

(3) enrolled in a training or assistance program.

(c) LOAN REQUIREMENTS.—

(1) IN GENERAL.—A loan provided to an eligible individual under this section shall—

(A) be for a period of not to exceed 12 months;

(B) be for an amount that does not exceed the sum of—

(i) the amount of the monthly mortgage payment owed by the individual; and

(ii) the number of months for which the loan is provided;

(C) have an applicable rate of interest that equals 4 percent;

(D) require repayment as provided for in subsection (d); and

(E) be subject to such other terms and conditions as the Secretary determines appropriate.

(2) ACCOUNT.—A loan awarded to an individual under this section shall be deposited into an account from which a monthly mortgage payment will be made in accordance with the terms and conditions of such loan.

(d) REPAYMENT.—

(1) IN GENERAL.—An individual to which a loan has been awarded under this section shall be required to begin making repayments on the loan on the earlier of—

(A) the date on which the individual has been employed on a full-time basis for 6 consecutive months; or

(B) the date that is 1 year after the date on which the loan has been approved under this section.

(2) REPAYMENT PERIOD AND AMOUNT.—

(A) REPAYMENT PERIOD.—A loan awarded under this section shall be repaid on a monthly basis over the 5-year period beginning on the date determined under paragraph (1).

(B) AMOUNT.—The amount of the monthly payment described in subparagraph (A) shall be determined by dividing the total amount provided under the loan (plus interest) by 60.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an individual from—

(i) paying off a loan awarded under this section in less than 5 years; or

(ii) from paying a monthly amount under such loan in excess of the monthly amount determined under subparagraph (B) with respect to the loan.

(e) REGULATIONS.—Not later than 6 weeks after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that permit an individual to certify that the individual is an eligible individual under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$10,000,000 for each of fiscal years 2005 through 2009.

Mr. ALLEN. Mr. President, I ask unanimous consent to add Senator LINDSEY GRAHAM of South Carolina as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask my good friend from Virginia, since he has such a good amendment, is the Senator prepared to go to a vote in favor of this amendment? This Senator is inclined to vote for the amendment, and I encourage all of my colleagues to vote for the amendment. Because we are going to accept this amendment, I wonder if the Senator could agree to a voice vote on his amendment so we can get to the spouses' dinner more quickly.

Mr. ALLEN. Mr. President, I certainly wouldn't want to do anything to harm the ability of Senators to be with their spouses, and I certainly consider that a pressing question. Yes, I would accept that offer and that proposal. I will only make a few comments so people know what they are voice voting on. I will take no more than a few minutes. That is a kind offer.

Mr. BAUCUS. I thank the Senator.

Mr. ALLEN. Mr. President, this amendment has to do with the Homestead Preservation Act. I filed this amendment to this underlying legislation to repeal the FSC/ETI tax regime.

I support the JOBS bill which should be focused on helping our manufacturers here in this country and also help increase jobs. The efforts made in the prior amendment were very commendable in many regards. This amendment would provide displaced workers access to short-term, low-interest loans to help meet monthly home mortgage payments while training for or seeking new employment.

This is a commonsense, compassionate amendment designed to help working families who through no fault of their own were adversely affected or lost their jobs due to international competition.

We have seen across this country—whether in the Southeast, or the Northeast, or the Midwest—uneasy times for everyone. Many regions of this country, from the Southeast, the Northeast and the Midwest and especially in places like southwest Virginia where we see a lot of job losses in the textile and apparel industry as well as furniture manufacturing, which has been especially hard hit. Any time one of these factories closes, it is a devastating blow to all the families and businesses in that community and in the region.

I was proud to actually see the response of close-knit communities in southwest Virginia where everyone came together to help those who had lost a job. When companies like Pluma, Tultex, Pillowtex and others closed their doors and thousands of jobs were

lost; not one or two, but multiples of thousands.

Most recently in Galax, VA—otherwise known as the home of the “Old-Time Fiddlers Convention”—Webb Furniture Enterprises closed their doors due to international competition. This amendment will help those families—not just in Virginia but across this country. The proposal would direct the Department of Housing and Urban Development—HUD—to help through these tough times.

I understand no government loan or government assistance will substitute for a job. But there are ways we can assist in this regard. We ought to find ways to ease the stress and turmoil for people whose lives are unexpectedly thrown into transition after years of steady employment with a company that suddenly disappears.

While they are looking for jobs and getting retraining, people are worrying about their homes. Often the biggest financial investment in someone’s life is their home. They have a lot of equity built into that home. Again, while they are getting training and looking for another job, those mortgage payments are still there.

When I saw this sort of economic disaster hit Martinsville a few years ago, it struck me so much like a natural disaster as far as the devastation. But in many regards it is worse than a natural disaster because after a natural disaster there is a buildup. There is hope for the future. In an economic disaster with the loss of thousands of jobs, there is no clear rebuilding process.

The point is the Federal Government, in my view, ought to make similar assistance available to homeowners in economic disasters as is available when there is a natural disaster.

That is the rationale behind my amendment—the Homestead Preservation Act. This legislation will provide temporary mortgage assistance to displaced workers by helping them make ends meet during their search for a new job. Specifically, the Homestead Preservation Act authorizes HUD to administer a low-interest loan program at 4 percent for workers displaced due to international competition. The loan is for up to an amount of 12 monthly mortgage payments—only 12, 1 year—for home mortgage payments only. The program is authorized at \$10 million per year for 5 years. The loan would be paid off.

These are not grants. They are loans to be repaid over a period of 5 years. No payments, though, would be required until 6 months after the borrower has returned to work full time, or 1 year, whichever is applicable. The loan is available only for the cost of the monthly home mortgage payment, and covers only those workers displaced due to international competition. It requires individuals seeking to avail themselves of this loan program to be enrolled in job training or job assistance programs.

The Homestead Preservation Act provides temporary financial tools nec-

essary for displaced workers to get back on their feet and to succeed. It is logical and, in my view, a responsible response.

This measure garnered strong bipartisan support the last time it was considered by the Senate. I respectfully urge my colleagues to recognize the value Americans place on owning a home, and support this caring and needed initiative.

If no one has anything further to say about it, I urge adoption of this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3113) was agreed to.

Mr. ALLEN. Thank you, Mr. President.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. ALLEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REFORM

Mr. BAUCUS. Mr. President, there is another point that I would like to discuss with the chairman for the record, regarding a form of restitution that is often authorized for rebates in the case of regulated utility providers whose rates to consumers are regulated. Due to a change of circumstances or other factors, the rates that were charged for a particular period may be determined to be greater than should have been charged if all relevant factors had been known and properly accounted for. Due to the large number of customers and the relatively small amounts involved, the regulatory authority frequently permits the utility to adjust rates to provide compensatory rebates for all current customers. This avoids, for example, tracing former occupants of an address served by the utility or otherwise tracing former customers for relatively small amounts. It is my understanding that this type of procedure would qualify as restitution because substantially all the payments are directed to the actual parties that overpaid.

Mr. GRASSLEY. Yes, that is correct. Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, we have once again had a productive day. I thank all Senators. We adopted several amendments. First is the overtime amendment, an issue which has occupied the Senate for some good amount of time. The Senate also adopted the amendment of the Senator from Maine, Ms. COLLINS, her manufacturing jobs

credit amendment. The Senate has also addressed the trade adjustment assistance amendment.

We have a number of major amendments pending. In the morning, we hope to have debate on Senator DORGAN’s runaway plant amendment which is already pending. Senator GRAHAM of Florida has an amendment already offered, as well as Senator BREAUX’s repatriation amendment. We hope to vote early in the afternoon on all those pending amendments.

I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

BURMA’S ICON STILL NEEDS HELP

Mr. MCCONNELL. Mr. President, if my colleagues doubt that the pen is mightier than the sword, they need to take 5 minutes to read Rena Pederson’s May 2 Dallas Morning News column entitled “Burma’s Icon Still Needs World’s Help.”

When it comes to continued repression in Burma, and a largely muted world response, Ms. Pederson hits a bullseye.

She is right to demand the U.S. Congress to expeditiously renew sanctions against Burma, which I fully expect us to do over the next few weeks, and to take the United Nations to task for its weak and tepid response to the State Peace and Development Council’s, SPDC, recalcitrance to implement U.N. General Assembly and Commission for Human Rights resolutions.

I share Ms. Pederson’s disbelief that the U.N. Security Council has yet to bring the Burmese crisis up for debate and sanction. We already know that Burma poses an immediate and grave threat to its neighbors, whether through refugees fleeing persecution, the spread of HIV/AIDS or the proliferation of illicit narcotics.

Unfortunately, the U.N.’s misguided “wait and see” approach serves to further exacerbate a regional crisis that is a direct result of these undesirable Burmese exports and that neighboring countries, out of political expediency, refuse to face. Thailand, China, India and other regional neighbors can only bury their heads in the sand for so long.

As three Burmese were recently sentenced to death for merely talking to

the International Labor Organization, a U.N. agency, one would think that the Secretary-General would have publicly and forcefully condemned these sentences as means to defend both the Burmese victims and the integrity of his own agency. It is not too late for such an expression.

Further, Ms. Pederson's concerns with U.N. envoy Ismail Razali's business dealings with the SPDC comes at time when the corrupt "oil for food" program in Iraq is under investigation. It is only fair to ask if principles are similarly being discarded in Burma for the sake of personal profit.

I suspect that the closer we get to the May 17 constitutional convention, the louder the din from the SPDC and its advocates in Thailand will become on "progress" being made in Burma. I have little hope that the convention will serve as a catalyst for anything but an attempt by the SPDC to bestow legitimacy upon itself and its abusive rule. The director of the Burma Fund, Zaw Oo catalogued these concerns superbly in an opinion piece entitled "Don't Help Burma's Generals" in the May 6 issue of the *Far Eastern Economic Review*.

My message to Daw Aung San Suu Kyi and the National League for Democracy could not be more clear: you are in a position of strength because of the principled stand you continue to make in support of the struggle for freedom in Burma. The people of Burma should know that America stands with them and will continue to do so until democracy and justice triumphs in Burma.

I ask unanimous consent that a copy of Ms. Pederson and Mr. Zaw Oo's articles be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DON'T HELP BURMA'S GENERALS
(By Zaw Oo)

As I write this, the Burmese military junta called the State Peace and Development Council, or SPDC, is expected to soon free pro-democracy leaders Aung San Suu Kyi and Tin Oo. But it will do this solely for ulterior reasons. The SPDC is seeking some measure of international credibility. Releasing Suu Kyi will get Asean off its back. Next, by also pretending to seek a road map towards some form of "disciplined" democracy, the SPDC gives Asean the cover to accept Rangoon's chairmanship of the group in 2006. But in a vicious circle, the SPDC is strong-arming the democratic opposition by using any legitimacy it gains abroad to force the opposition into accepting its road map—which will only strengthen its position as a regime. The generals don't plan to retire from politics any time soon.

The SPDC is rushing to implement its seven-point road map towards "democracy" by reconvening on May 17 a national convention to prepare a new constitution. The original convention was aborted in 1996 after the SPDC expelled the National League for Democracy for complaining that the convention was being manipulated. The new convention will just as likely be manipulated. First, holding the meeting in a remote town called Mhawbi is meant to isolate and in-

timidate opposition delegates. Moreover, the convention commission will be made up only of SPDC officials, who will completely control the agenda and procedures. The junta could also use its notorious military rule, "Order 5/96," to suppress those who oppose its wishes. Certainly, that was what it did the last time around.

The junta's hand-picked delegates are expected to ram through 104 constitutional principles laid down in 1996 before the last convention was scrapped. Those principles include setting aside 25% of parliamentary seats for the military, indirect election of the president through an electoral college, the requirement that presidential candidates have military experience, and total autonomy for the military. They are a comprehensive list of military prerogatives that make a mockery of any modern notion of constitutionality. Thus, through a "guided" convention, the SPDC's road map will lead to a "disciplined" political form: a constitutional military autocracy.

Clearly, the SPDC's version of "reform" will continue to be a disaster for Burmese. Its vision of democracy with dual power centres in the form of a military commander-in-chief and the president could easily become unstable because of the intermittent power struggles that emerge within the military. Its economic model won't bolster investors' faith. (Even the Chinese have become frustrated with Burma's appalling economic policies.) Dreams of Thai industrialists relocating manufacturing plants to Burma will remain just that: fantasies. And the continuing gross neglect of Burma's social capital and a likely failure to stem the lucrative drug trade will export instability from Burma to its neighbours.

A year ago, at a gathering in Bangkok of like-minded individuals from 10 countries, there was the promise of a start to building an effective regional strategy towards Burma. The gathering, called the Bangkok Process, could have sent a clear signal to the SPDC that its intentions were unacceptable. Sadly, the meeting chose to build on the earlier constructive-engagement policy. Still, the damage could have been minimized if the process had crafted a larger international strategy by inviting the participation of the United States, and provided the United Nations a stronger mandate to mediate and enforce a democratic settlement in Burma.

Today, only a democratic breakthrough can stop the looming confrontations in Burma. Suu Kyi has been consistent in offering a reasonable role for military leaders in jointly transforming Burma into a democratic country. In 1990, the Burmese military organized an election and supervised it; the NLD won but the military refused to honour the results. Now is the time finally to resolve this impasse. The key is to assist negotiations in Burma for implementing this as-yet unrealized national mandate in a way that provides shared responsibility between the NLD, the military and ethnic leaders. Compromise is needed to allow for a sharing of power and responsibility in managing a democratic transition. All this is clear. But what would not be helpful is for Burma's neighbours to help efforts by the SPDC to strengthen and prolong its rule. This would not be in the interest of anyone in Asia, let alone Burma.

[From the *Dallas Morning News*, May 2, 2004]

BURMA'S ICON STILL NEEDS WORLD'S HELP
(By Rena Pederson)

Back in 1995, Madeleine Albright went to Burma to visit Aung San Suu Kyi, who was being held under arrest. Though jailed in her own home, the Nobel Peace Prize winner showed her respect for visiting secretary of

state in a touching way. She scrubbed the walls and floor of her house by hand and washed and ironed the curtains by herself.

It is a good bet that few Nobel laureates have had to do the same.

But, then, there is no one quite like Ms. Suu Kyi, the brilliant Oxford graduate who continues to risk her life to bring democracy to Burma.

Last week, Ms. Albright returned the favor. She joined Republican Sen. John McCain of Arizona in calling for a renewal of American sanctions on the Burmese junta because the murderous generals are keeping Ms. Suu Kyi under heavy guard in her house yet again.

Fourteen Nobel literature laureates—including Gunter Grass and Toni Morrison—recently joined Vaclav Havel, former president of the Czech Republic, in calling for the release of Ms. Suu Kyi and other imprisoned writers in Burma.

Like Ms. Albright, Mr. Havel has been inspired by Ms. Suu Kyi's astounding courage and has been pressing for her release for more than a decade. What is little known is that he was considered the shoo-in for the Nobel Peace Prize in 1991 after the "Velvet Revolution" in Czechoslovakia, but he threw his support to Ms. Suu Kyi and forfeited his own chances. Hers, he explained, was the greater example.

What we need is similar gallantry from Congress, which should waste no time extending economic sanctions. What we need is similar courage from the United Nations, which has stood by while the Burmese generals slyly have made a fool of Secretary-General Kofi Annan by reneging time and again on promises of reform.

If Mr. Annan doesn't have enough problems with corruption in the "oil for food" scandal in Iraq (which may include payoffs to his son), his credibility is going to be damaged even more when people start investigating his see-no-evil attitude toward the Burmese regime.

Some of the tough questions that need to be asked include: Why did Mr. Annan send an envoy to handle the Burma crisis who was doing business deals with the regime? Mr. Annan's envoy, Razali Ismail, has a contract to provide microchips for Burmese passports. Amazingly, Mr. Annan has ruled that the sweetheart deal isn't a conflict of interest because Mr. Ismail was only a "part-time" envoy.

That's the diplomatic equivalent of passing the canapés. Pray tell, why doesn't Mr. Annan bring the Burmese crisis up before the Security Council? why has he merely purred that the junta may allow democracy in 2006?

While Mr. Annan blinks and purrs, the horrific crimes of the Burmese dictators continue without relief. Reports of war crimes continue to seep out of Burma: The rape and torture of women. The destruction of villages. Forced relocations. The laying of new land mines. The murder of Muslim minorities.

To make matters even more disturbing, the *Far Eastern Economic Review* has reported that North Korea may be selling missiles or nuclear technology to Burma. A Christian cemetery near the Rangoon Airport reportedly was bulldozed last fall to make way for the missile base.

It isn't a good time to keep passing the canapés.

As Sen. Kay Bailey Hutchison put it last week, "The brutal tactics adopted by Burma's military rulers are reprehensible. The Free World must be unequivocal in demanding the junta release Aung San Suu Kyi and change its ways."

There was a slight flutter of hope last week that the Burmese generals might be edging toward a transition because they allowed the reopening of the headquarters of

the National League for Democracy, Ms. Suu Kyi's political party. They also released a few party leaders from prison.

But 1,300 remain in prison, and the top two leaders, Ms. Suu Kyi and Tin Oo, remain under house arrest.

The junta's recent charm efforts couldn't mask the fact that behind the scenes, the generals slapped life sentences on 11 league members who are in prison. That is tantamount to a death sentence in the grim Burmese gulag. The nine weren't allowed to speak in their own defense. Their only crime was witnessing an attack on Ms. Suu Kyi by government thugs last May 30.

Even if Ms. Suu Kyi is released, she may be in greater danger outside her home if the junta imposes a constitution at gunpoint that leaves it in power. Congress must keep sanctions in place until there's certifiable change. As Margaret Thatcher would say, this is no time to go wobbly.

CENTENNIAL OF WASHOE COUNTY PUBLIC LIBRARY

Mr. REID. Mr. President, we all understand that books are one of the greatest things ever created by human beings. Books bring the world within our reach, and they open the door of knowledge. Our Nation long ago recognized the importance of books and reading. That is why we developed a system of universal education, where every child would have an opportunity to learn how to read. And that is why we have public libraries. One hundred years ago this month, on May 31, 1904, the city of Reno, NV opened its first public library. The building was constructed on donated land, with a gift of \$15,000 from Andrew Carnegie. Mr. Carnegie believed so strongly in public libraries that he built more than 1600 of them around the world. That original library served the city of Reno for 26 years. But as the town grew and the popularity of the library increased, more space was needed. In 1930, the Reno Public library moved into the old State building in Powning Park. It also became affiliated at that time with Washoe County. Two years later, the county also opened a library in the nearby city of Sparks.

After World War II, as Washoe County began to experience more growth, the library system expanded to keep up with the demand. Under the leadership of Portia Hawley Griswold, the first library "bookmobile" hit the road in the late 1950s, bringing books to remote areas of the county. A new main branch opened in downtown Reno in 1966, thanks to a gift from the Max C. Fleischmann Foundation.

As the library system added more new locations throughout the 1970s and 1980s, it also employed new innovations. A Senior Center library made books more accessible to retirees, with volunteers delivering books to the homebound. The Gerlach High School branch launched a partnership between the county and the local school system. The Sierra View library was the first to open in a shopping center. Today, the Washoe County library system has branches in 12 locations, plus a

mobile library. Citizens can also use the library's Internet branch to look for books and conduct research for school assignments, business projects, or simply to satisfy their curiosity. Last year the people of Washoe County visited the library system 1.4 million times and checked out almost 2 million items. As it has for the last 100 years, the public library is meeting the needs of the people of Reno NV, and Washoe County. It puts books and knowledge within the reach of every citizen.

This centennial of success calls for a celebration. So a gala birthday party for the Washoe County library system will be held on May 21.

Please join me in congratulating Library Director Nancy Cummings and the trustees of the Washoe County library system—Chairman Bud Fujii, Lucille Adin, June Burton, Paul Theiner and Paul Davis. Along with the Washoe County Commission, the Friends of the Washoe County Library, and the Washoe County Library Foundation, they have continued to advance the worthy goal that Andrew Carnegie embraced a century ago.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

Two men harassed a white lesbian in Colorado as she left a 7-11 store; one of them yelled an obscenity and called her a "faggot." The victim got into her own pickup truck and drove away, but the offenders followed her and eventually drove her off the road. When she got out of her car, the two men assaulted her sexually and beat her unconscious. A detective who later interviewed the victim about the incident was verbally abusive, calling her a "liar" when she said she could not provide a detailed description of her attackers.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

MALTREATMENT OF IRAQI PRISONERS

Mr. BYRD. Mr. President, the American people know about the strong and honorable character of the American soldier. Over the last 228 years, the United States Army has rightly earned the reputation of a professional fighting force that is courageous in battle and benevolent in peace.

The United States Army has had centuries to earn the respect of the American people. The White House expected our military to earn the trust of the Iraqi people in only months. Despite the outstanding service of countless thousands of our troops, the shameful and disgusting abuse of Iraqi prisoners at the hands of U.S. soldiers is a tragedy that must be corrected immediately.

The photographic evidence that Iraqi prisoners have been humiliated, abused, and mistreated is absolutely shocking. One can hardly ponder the technicalities of the Geneva Conventions when the most basic rules of human decency have been violated. The disgust expressed by many Americans has been amplified a thousand times by outraged Muslims around the world.

How long might it be before Osama bin Laden uses these incidents to whip up anti-American sentiment in other corners of the world? After the bloodiest month of the occupation of Iraq, this is news our Nation can ill afford.

It is not clear at this point who should be held to account for this stain upon the reputation of our armed forces. No one has stepped forward to take responsibility for the conditions in Iraqi prisons. Instead, fingers are being pointed in every direction. Soldiers are blaming superior officers, and generals are blaming subordinates. Others blame our intelligence services, which blame contractors, who blame others still. Some military leaders claim that this is an isolated incident, others make ominous claims about patterns of abuses. With whom does this buck stop?

The Armed Services Committee today had a closed-door briefing from three Army Generals. No civilian official of the Department of Defense appeared at the briefing, nor did any member of the Joint Chiefs of Staff. I did not attend that briefing. Secret, closed door meetings on a subject of such enormous import smack of damage control and cover-up—and that is the last impression the Senate should be conveying. We must ensure that Congress accedes to no ground rules in its investigations that could further taint this deplorable situation.

The time for public hearings on prisons run by the U.S. Armed Forces is now. We must leave no room for charges that investigations are being glossed over, pushed aside, sat on, or ignored. I have written to the chairman and ranking member of the Armed Services Committee to urge them to call public hearings with Secretary of Defense Donald Rumsfeld, Director of Central Intelligence George Tenet, and Chairman of the Joint Chiefs of Staff General Richard Myers. The Armed Services Committee should also seek testimony from outside experts on the laws of war and humanitarian affairs, such as the International Committee for the Red Cross, Human Rights Watch, and scholars of international law.

These hearings should take place as soon as possible, and examine all detention facilities run by the U.S. military, including those in Iraq, Afghanistan, and elsewhere. The abuse of Iraqi prisoners was covered for months until it was reported by the news media. Congress has no time to spare to find out what went wrong and what is still wrong, and take action to prevent further abuse of prisoners in our charge.

HONORING OUR ARMED FORCES

SPC DENNIS MORGAN

Mr. NELSON of Nebraska. Mr. President, SPC Dennis Morgan was a dedicated soldier who fought bravely for his country. He was a member of the South Dakota National Guard and worked to protect others by finding and disarming explosive devices along the roads.

Morgan was mobilized December 7, 2003 and deployed to the Middle East in February. He was in the last vehicle of a convoy, protecting an armored personnel carrier when a roadside bomb exploded. Morgan is the first casualty involving the South Dakota National Guard, which has nearly 1,200 members in the Middle East. His wife described him as a "wonderful man, a hero, very loving and always happy."

I would like to express my deepest sympathy for the Morgan family. SPC Dennis Morgan will be greatly missed and our thoughts and prayers will be with his family and friends. He leaves behind his wife and his mother. Dennis's sacrifice will forever remind this Nation of the danger that comes with the duty to protect our Nation's interests and the freedoms of others around the world. As a Nation we are grateful to Dennis Morgan and other soldiers like him who make the ultimate sacrifice so that others can live in freedom.

HISTORIC EXPANSION OF THE EUROPEAN UNION

Mr. MCCAIN. Mr. President, on May 1, 2004, in a truly historic move, the European Union welcomed 10 new member states. On this momentous occasion, I offer my congratulations and best wishes to the people of the Czech Republic, Cyprus, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Slovakia, and Slovenia. These countries have made great achievements, and America benefits from our close ties to these nations.

EU expansion represents yet another victory for freedom in Central and Eastern Europe, together with the fall of the Berlin Wall in 1989, the Soviet Union's last gasp in 1991, and the two NATO expansions. Europe is divided no longer, and the United States enjoys an unprecedented relationship with the 10 new EU members.

I hope that our excellent relations with these countries will continue, and that we will continue to pursue our

common goals of freedom, democracy, and prosperity throughout the world.

FAILURE TO SOLVE H-2B VISA CRISIS

Mr. LEAHY. Mr. President, I regret the need to once again call attention to the fact that the Senate continues to neglect our obligation to respond to a crisis, caused by Federal policy, that is disrupting the operations of small and large businesses throughout the United States.

Two months ago the Department of Homeland Security announced that for the first time ever the annual cap for H-2B visas had been met. These visas are used by a wide range of industries throughout the Nation to fill temporary labor needs. In my home State of Vermont, they are used primarily by the tourist industry.

Across the country, businesses in a wide range of industries had developed plans that relied on the foreign employees who had always before been available to them. For years, these employers had applied in the spring for the employees they needed for the summer, filling positions for which they were unable to find American workers. The cap had never been reached, and they had no reason to believe this year would be different. I know that the March announcement came as a shock to many employers in my State, and dozens of them contacted my office to see what could be done. This setback fell equally hard on employers in other States.

In response to these requests, I joined with a substantial bipartisan coalition in introducing S. 2252, the Save Summer Act of 2004. Senator KENNEDY is the lead sponsor of the bill, which has 18 cosponsors, including eight Republicans. Our bill would add 40,000 visas for the current fiscal year, providing relief to those summer-oriented businesses that had never even had the opportunity to apply for visas.

The following day, Senator HATCH introduced S. 2258, the Summer Operations and Services Relief and Reform Act. I do not believe that this bill, cosponsored exclusively by Republicans, is as effective a bill as S. 2252, but I would support it if it came before the Senate. Despite its sponsorship by the chairman of the Judiciary Committee, and by the chairman of the Immigration Subcommittee, S. 2258 has now been held hostage in the Republican cloakroom for 5 weeks.

Obtaining these visas takes weeks, if not months, because the Departments of Labor and Homeland Security must both sign off on them. I and others have repeatedly warned that we needed to pass legislation by May 1 if we were going to provide meaningful relief. That date has come and gone, and now it is too late to help many, if not all, of the businesses that had relied upon the availability of H-2B visas. It is beyond disappointing that at the Republican leadership in this body ignored

my pleas and the pleas of so many Senators. And it is inexcusable that the Republican leadership ignored the pleas of business owners across the country asking for this emergency relief.

And so it is that a tiny minority of the Republican caucus has managed to frustrate the will of a substantial bipartisan coalition of Senators who have sought to raise the H-2B cap, thereby needlessly harming businesses throughout the Nation. Meanwhile, the Republican leadership has failed to make solving this problem a priority. Perhaps if the majority leader chose to devote floor time to issues that had substantial bipartisan support, instead of using the floor to set up symbolic votes whose results are known well in advance, we would not be in this position.

These businesses contribute much to the economies of our States. They deserve better treatment than they have received at the hands of the Republican leadership of the Senate.

WORLD ASTHMA DAY

Mr. JEFFORDS. Mr. President, May 4 is World Asthma Day. Today people from across the globe will raise awareness of asthma and its impact on the lives of those millions of people who suffer from it. It should also be the day we in government recall our duty to safeguard the health of all Americans.

Asthma is a lifetime disease. It is triggered by a variety of factors, including allergens, cigarette smoke, viral infections, foods, weather changes, and air pollution. Air passages become inflamed, making it difficult for sufferers to breathe, and sometimes resulting in critical emergency situations. It is dangerous, and it is costly. Our country spends around \$3.2 billion every year just to treat asthmatic children.

That is why I am particularly concerned that asthma is on the rise, and that polluting industries and cars are making matters worse. Seventeen million Americans suffer from asthma. It is the most common chronic health problem among our Nation's children, causing missed school days, restricted activity, and costly medical bills. According to the American Lung Association, 9,000 children and 42,000 adults in Washington, DC alone have asthma.

Scientific research has increasingly linked air pollution from power plants and tailpipe exhaust to asthma. For example, researchers at the University of Southern California recently discovered that children living in high-ozone areas and participating in outdoor sports were three times more likely to develop asthma than less active kids in less polluted areas. The scientists explain that children who exercise outdoors take in more of the dirty air than other kids, leaving them more susceptible to airway damage.

A new report by the Harvard Center for Health and the Global Environment at Harvard Medical School expands

upon such research by linking global warming gases to increased incidence of allergies and asthma in the inner city. The report states that rising levels of atmospheric carbon dioxide, due mainly to fossil fuel combustion, not only trap more heat, but they promote greater pollen and mold growth and associated asthma.

On World Asthma Day, the air may not be clear, but the message is: We must immediately and dramatically reduce smog- and ozone-forming pollution and global warming gases in order to protect public health. The President's Clear Skies initiative won't do the job, neither will the EPA's new administrative rules that just postpone real pollution reduction for a decade or more.

I urge the administration and the Congress to put aside partisan differences and polluters' special interests to protect the precious lives of those we represent. To live is to breathe. Until all Americans can breathe freely, our work is not yet done.

MOTORSPORTS FACILITIES FAIRNESS ACT

Mr. GRAHAM of South Carolina. Mr. President, I rise today to urge my colleagues to join me in supporting S. 1524, the Motorsports Facilities Fairness Act.

S. 1524 would clarify the tax treatment of motorsports facilities, codifying the 7-year depreciation classification that track owners have used, in good faith, for many years. This classification went without question in numerous audits and reviews until very recently. Now the IRS wants to implement a new interpretation of the law that would result in a retroactive tax increase for motorsports facility owners.

This new interpretation would penalize the owners of motorsports entertainment facilities who have invested hundreds of millions of dollars in these properties in order to meet the demands of sanctioning bodies and racing fans. Technological changes and enhanced safety requirements can render even recent track repair and reconstruction obsolete. Tracks must also compete to host premier racing events, in part by drawing as many fans as possible. This is why facilities must constantly renovate, rebuild, upgrade and expand.

Darlington Raceway in South Carolina typifies this reinvestment ethic. The track that is "too touch to tame," is undergoing substantial upgrades. Earlier this year, Darlington installed "SAFER" (Steel And Foam Energy Reduction) barriers. The track is currently installing lighting for night racing, which will be completed before the next running of the NASCAR Southern 500 in November.

S. 1524 would not only cover large facilities such as Darlington. The legislation would also clarify the tax law for hundreds of tracks around the country,

including approximately 30 other facilities in South Carolina alone.

The government should not punish these track owners for making capital investments in their facilities. These investments provide substantial economic benefits for the communities where these facilities are located.

Congress should promptly enact S. 1524 to provide certainty and clarity to the Tax Code and to encourage motorsports facility owners to continue to make economically beneficial investments.

CELEBRATING GOVERNMENT WORKERS NATIONWIDE

Mr. SARBANES. Mr. President, I rise today to honor the hundreds of thousands of civilian and military employees who have chosen to dedicate their lives to public service. This week, from May 3 through May 9, we celebrate Public Service Recognition Week. Organized by the Public Employees Roundtable since 1985, this week allows us to honor those who have chosen to serve their country and to educate the public about the broad variety of services government provides.

President Kennedy once said: "Let the public service be a proud and lively career. And let every man and woman who works in any area of our Nation's government, in any branch, at any level, be able to say with pride and honor in future years: 'I served the United States Government in that hour of our Nation's need.'" Our Nation is most certainly in a time of need. Great uncertainty exists about the state of world relations, the direction our Nation is headed, and the economic welfare of our society. Unfortunately, the pride and honor associated with public service has been diminished by a lack of respect. Rather than commending the important work Federal civilian employees do side-by-side with our military employees, society too often seeks to belittle their contributions; choosing instead to characterize the civil service as a large, inflexible bureaucracy.

At the Federal level, we are experiencing a disturbing trend. The ranks of bright, active, and well-trained Federal employees are slowly diminishing. Of our 1.8 million Federal civil servants, 50 percent will be eligible to retire over the next five years. At the same time, a national poll by the Partnership for Public Service found that only one in four college-educated Americans expressed significant interest in working for the Federal Government. A recent survey by the Council for Excellence in Government said that young people, while eager to find a job that will allow them to help people, are less likely to choose government jobs than work in the non-profit sector.

In my view, however, if our young people understood the expertise, the sacrifice, and the dedication required to serve the public, they would be less inclined to belittle this calling and

more inclined to answer it. Young people should know, for instance, that civilian employees from agencies such as the Environmental Protection Agency, Centers for Disease Control and Prevention, the U.S. Capitol Police and the FBI worked side by side with the Coast Guard and the Marine Corps Chemical Biological Incident Response Force from Indian Head, MD to respond to the discovery of ricin in the Dirksen Senate Office Building.

Without the civilian Federal researchers at the Human Genome Project, we would know much less about the make-up of the human body and, more importantly, be much further away from providing cures to genetic disorders such as cystic fibrosis and sickle cell anemia. Their work—a complete description of the draft of the DNA sequence of the human genome—was completed faster than originally planned.

Without the hard work done by the civilian employees at the National Security Agency, we would likely be without a few things that today we consider basic necessities, such as computers and cassette tapes. Further, the development of more advanced theories and technologies such as quantum mathematics, nanotechnology, biometrics, and semiconductors—which are quickly changing our world's technological landscape—would have been hindered or never started but for the efforts of NSA's dedicated and innovative employees.

The employees at the National Institute of Standards and Technology's Building and Fire Research Laboratory are about as inconspicuous a group of researchers as exist. But without them there would be no standard coupling for fire hoses or hydrants. If you do not know why that's important, consider the devastating fire that destroyed 2,500 buildings in an 80-block area in the heart of Baltimore in 1904. Responders came from fire departments in D.C., New York, and Philadelphia to help put out the blaze. But each department's hoses had different threads, so they could not be linked to Baltimore's hydrants, making them almost useless. After the fire, the Building and Fire Research Laboratory's predecessor, the National Bureau of Standards, worked with the National Fire Prevention Association to develop national standards and codes for fire equipment, which departments still use today.

Finally, thanks to scientists at the National Cancer Institute, NCI, and the Food and Drug Administration, FDA, women's chances of detecting ovarian cancer earlier and possibly recovering have increased. Working together, NCI and FDA discovered that patterns of proteins found in patients' serum may reflect the presence of ovarian cancer, even at early stages. Currently, more than 80 percent of ovarian cancer patients are diagnosed at a late clinical stage and have a 20 percent or less chance of survival. This research may increase those chances.

During this Public Service Recognition Week, I urge my colleagues to take a moment to appreciate advances such as these that our Nation and society have made as a result of the hard work of Federal civil servants. When President Kennedy initially released his Peace Corps proposal, the reactions he received convinced him that "we have, in this country, an immense reservoir of such men and women—eager to sacrifice their energies and time and toil to the cause of world peace and human progress." Things have not changed. The American populace is still full of men and women who want to serve. The challenge for us, as a Congress and a Federal Government, is to convince more of those men and women that civil service is a laudable way to serve their country.

RESCUE COST ANALYSIS

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the executive summary and recommendations of the following August 2001 Report to Congress titled: "Analysis of Cost Recovery for High-altitude Rescues on Mt. McKinley, Denali National Park and Preserve, Alaska" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY—ANALYSIS OF COST RECOVERY FOR HIGH-ALTITUDE RESCUES ON MT. MCKINLEY, DENALI NATIONAL PARK AND PRESERVE, ALASKA, AUGUST, 2001

INTRODUCTION

The following report addresses the requirements of Public Law 106-486 enacted November 9, 2000, directing the National Park Service to complete a mountain climber rescue cost recovery study by August 9, 2001. This report describes the role of the National Park Service and Denali National Park and Preserve (DNP&P) in search and rescue activities and analyzes the suitability and feasibility of recovering the costs of high-altitude rescues on Mt. McKinley. It addresses the three items required in the legislation.

(1) Recovering the costs of rescues on Mt. McKinley.

(2) Requiring climbers to provide proof of medical insurance before the issuance of a climbing permit.

(3) Charging for a climbing permit and changing the fee structure. This report was prepared with existing funds.

A variety of organizations and individuals were involved in the development of this report. They included: the National Park Service, Alaska Regional Office and Washington Office; American Alpine Club; 210th Alaska Air National Guard; U.S. Army at Fort Wainwright; Mountain Guide Concessionaires; Access Fund; Alaska Mountain Rescue Association; Alaska State SAR Coordinator; Providence, Valley, and Alaska Regional Hospitals; Mountain Rescue Association; and the Alaska Mountaineering Club.

RECOMMENDATIONS

After a thorough analysis of the suitability and feasibility of cost recovery, this report recommends the following:

Part One: The Suitability and Feasibility of Rescue Cost Recovery

1. Based on the relationship of DNP&P to the national program for National Park

Service search and rescue, the relationship to the practices of other agencies, the practices of the military, and the practices of the State of Alaska, the Park Service recommends that the current policy of not charging for search and rescue be continued. If the other federal agencies and the military develop a policy for the collection of search and rescue costs from participants in high risk activities, the National Park Service should also participate. This would best be done through the passage of legislation that applies to all federal agencies and branches of the military that currently rescue members of the public in need.

2. To reduce National Park Service costs related to evacuation of injured climbers, the park will work with Providence Hospital in Anchorage regarding additional operation by the hospital of its Lifeguard helicopter to transport injured climbers from the 7,200-foot base camp on Mt. McKinley. Like most ambulance services, the hospital bills the patient directly for the service. This would reduce the use of military and NPS helicopters for a service that can be provided by a private entity.

Part Two: Suitability and Feasibility of Requiring Proof of Medical Insurance

1. The review of incidents shows no information indicating a problem of any magnitude. DNP&P, therefore, recommends not requiring proof of medical insurance at this time. DNP&P will continue to monitor with the hospitals and work with insurance companies to determine if a need exists in the future to require proof of insurance. If proof of medical insurance were to be made a new requirement, it would be best to set the precedent consistent across agencies and different types of high-risk activities.

2. DNP&P will encourage climbers to carry medical insurance and will provide information with registration packets and pre-climb briefings about access to providers specializing in climbing insurance.

Part Three: Climber Registration Fee Review

1. In order to help recover costs for the human waste management studies, an additional \$50.00 fee should be added to the current \$150.00 climber registration fee. The total fee for climbing Mt. McKinley or Mt. Foraker would then be \$200.00.

2. Currently, only climbers of Mt. McKinley and Mt. Foraker are required to register. Initiate required registration for all other climbers in DNP&P. This would help ensure all climbers receive safety and waste management information.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

Christopher Hutcherson of Biloxi is accused of capital murder in the January stabbing death of John Brown Smith III, 39, of Fort Walton Beach, FL. A detective testified that Hutcherson told investigators that he stabbed Smith because the retired military man made sexual advances while holding a gun on him. The detective said Smith and Hutcherson were at an adult video arcade, known as a

gay pick-up place, the morning of the killing. Hutcherson told investigators that he left the video store and went to Smith's nearby hotel room. The two men drank alcohol before leaving the hotel in Smith's pickup. Smith's body was later found on the rural road by a passerby.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

U.N. SECURITY COUNCIL WMD RESOLUTION

Mr. KYL. Mr. President, speaking before the UN General Assembly in September, President Bush asked the Security Council to take a firm stand against the proliferation of weapons of mass destruction, WMD. President Bush asked for a Security Council resolution that would call on all nations to criminalize proliferation, enact strict export controls and secure these terrible weapons within their own borders.

Seven months later, on April 28, the UN Security Council unanimously passed Resolution 1540 fulfilling the President's goals. Those who have argued that this administration has turned its back on the international community need only look at the diverse group of nations—from Algeria to Angola, Chile to China, Pakistan to the Philippines—that stood with the United States in this important battle in the war on terror to dispel such notions.

It is now up to the members of the United Nations to follow the Security Council lead and enact the provisions that will help stem the flow of dangerous weapons and technology.

This resolution is the culmination of the administration's hard work, led by Under Secretary of State John Bolton, to halt the proliferation of chemical, biological and nuclear weapons. The President's proliferation security initiative, launched last March, embodies these efforts. It has brought together nations from North America, Europe, Africa, and Asia to interdict shipments of WMD around the world. This resolution endorses such important collective action and I urge all nations to join in the effort.

I applaud the administration and the Security Council for helping take an important step to building a safer, more secure world.

HOMEFRONT HEROES

Mr. ALLARD. Mr. President, I will take a few moments to recognize an organization that embodies the selflessness we hold dear in the United States. In Grand Junction, CO, Homefront Heroes was organized to answer the needs of spouses and family members left behind by deployed soldiers from across

the Western Slope of Colorado. On March 29, 2004 the following resolution was passed by the Grand Junction City Council, commemorating the first rally for the troops organized by Homefront Heroes during the Spring of 2003.

I ask unanimous consent that the city of Grand Junction's resolution be printed in the RECORD following this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLARD. I also thank the volunteers of Homefront Heroes for helping the military community in its time of need.

EXHIBIT 1

Whereas our Active Duty Military National Guard and Colorado Reserves men and women have answered the call to protect America from harm. These Service men and women have been deployed around the world, protecting the freedoms we often take for granted at home.

Whereas these men and women now fight a war on terrorism, they fight this war with the same pride for Country, Honor and Courage as our forefathers.

Whereas our military families have also sacrificed during this same time of war while their loved ones have been deployed.

Whereas our military has always protected our Great Nation and we have always honored our service men and women after they have returned, allowing our service men and women to know that we in Colorado support them during their time of active duty and we appreciate what they have endured and sacrificed.

Whereas Colorado honors the past, supports the present, and encourages the future of our military men and women.

Whereas The yellow ribbon has come to be recognized as signifying Honor, Courage, and Hope for military families and loved ones.

Whereas on March 29th, 2003, 2,500 citizens in Grand Junction, Colorado, showed support of our Colorado heroes by having a Lets Support Our Troops yellow Ribbon Rally where everyone wore yellow in support of our heroes; be it

Resolved That March 29 shall be Grand Junctions' Salute Our Troops—Remembrance Day. That one day, Coloradans shall show support of our service men and women by either wearing yellow or displaying a yellow ribbon, signifying the Honor, Courage, and Hope our Colorado heroes display.

ADDITIONAL STATEMENTS

NATIONAL DAY TO PREVENT TEEN PREGNANCY 2004

• Mrs. BOXER. Mr. President, I am proud to recognize today as the National Day to Prevent Teen Pregnancy and want to thank the National Campaign to Prevent Teen Pregnancy for sponsoring it. The campaign is a non-profit, non-partisan organization whose mission is to improve the well-being of children and families by reducing teen pregnancy.

Nearly 900,000 American teenagers become pregnant each year, and over 10 percent of all births in the United States are to teenage mothers. While teen pregnancy, abortion, and birth rates are all going down, the U.S. still

has the highest rate of teen pregnancy in the industrialized world. Almost 35 percent of girls become pregnant at least once before age 20.

Many activities are happening across the country in recognition of the National Day to Prevent Teen Pregnancy. In my home State of California, Pinch Me Films of Berkeley is organizing events to promote open dialogue between young people, parents and educators. In addition, the California Health Collaborative, Merced Rural Teen Pregnancy Prevention is hosting a health fair for youth, and the Children's Hospital of Los Angeles—with over 6,000 employees—will have an article about National Teen Pregnancy Prevention Month in its employee newsletter, highlighting tips for parents to discuss pregnancy prevention.

On November 25, 2003, I introduced S. 1956, The HOPE Youth Pregnancy Prevention Act to address this problem. Specifically my bill would provide additional resources to States, localities, and nongovernmental organizations for teenage pregnancy prevention activities targeted to ethnic minorities and at-risk youth. Fifty-one percent of Latina girls become pregnant at least once by age 20. Fifty-seven percent of black girls become pregnant at least once by age 20. I urge my colleagues to co-sponsor this legislation.

I urge my colleagues to support activities that are taking place nationally and in their own States to reduce teenage pregnancy. •

JAMES AND SOPHIA TARABICOS' 50TH WEDDING ANNIVERSARY

• Mr. CARPER. Mr. President, I rise today to congratulate Jim and Sophia Tarabicos, who celebrated their 50th wedding anniversary on February 28, 2004.

As Jim and Sophia celebrate this milestone in their lives, they will surely reflect on the many changes, successes and accomplishments they have experienced together over the last fifty years. Theirs is a journey of which they can be proud.

Jim is the son of the late Harilaos and Alexandra Tarabicos. Jim attended high school in his hometown of Nafpaktos, Greece. He came to Wilmington, DE at the young age of 19 to work at his uncle's restaurant, Presto, located at 817 Market Street in downtown Wilmington. His wife, Sophia, is the daughter of the late Louis and Georgia Liarakos. She is a native Delawarean who graduated from P.S. Dupont High School and studied at the University of Delaware.

Jim and Sophia met at a church event when they were 19 and 17 respectively. They married two years later on February 28, 1954 at Holy Trinity Greek Orthodox Church in Wilmington in front of their friends and family.

For over 40 years, Jim and Sophia dedicated their lives to one another and to their businesses. They opened their first store, a luncheonette named

Jim's Place at 8th and Orange Streets in Wilmington in the mid 1950s. Several years later, they bought Presto Restaurant from their uncle. They later changed the name to Tarabicos. Jim and Sophia were committed to the success of their restaurant. Owning their own business allowed them to spend valuable time with each other, while at the same time being devoted parents, and major contributors to their neighbors, community, and church. They retired a decade ago, and continue to remain active members of their community.

Jim and Sophia consider their church to be like a second family. Jim was the president of the parish council for Holy Trinity Greek Orthodox Church from 1971 to 1973. While Jim was president, plans were made to move forward with approving the construction of the community center and the design, financing and use thereof. Sophia is a member of the Philoptochos Greek Ladies Society and served as president from 1981 to 1983.

In addition to the restaurants and church activities, Jim and Sophia were also quite involved with political activities, committees, and fundraisers in the City of Wilmington and were active with the city's merchants association. In their spare time, they enjoy taking walks together at Bellevue State Park, and traveling, especially taking cruises.

They are blessed with three children, Larry, Alexandra, and Georgiean, and six grandchildren, Kristin, Sophia Alyssa, Maria, Sophia Elaina, Michael and Dimitri. They are devoted to each other and to their families. Jim and Sophia are active in their children's and grandchildren's lives, often traveling to visit family members and spending meaningful time with their grandchildren and passing on to them valuable life lessons. They enjoy attending all of their various school functions.

Today, I rise to congratulate Jim and Sophia on their 50th wedding anniversary. Both have shown great service and commitment to their family and to their community. They serve as true role models. I know that their years together hold many beautiful memories. It is my hope that those ahead will be filled with continued joy. I wish them both the very best in all that lies ahead. •

CITY OF PADUCAH

• Mr. BUNNING. Mr. President, I would like to take a moment today to pay tribute to the city of Paducah and their innovative and successful Artist Relocation Program.

The program is a past recipient of a Kentucky Governor's Award for contribution to arts in the State. The city has even been recognized by First Lady Laura Bush as part of the Preserve America Initiative. Most recently, the city was honored by the American Planning Association at their April

2004 national convention in Washington, DC. The Special Community Initiative award is given annually to a city displaying an innovative approach to improvement. This year there were over 200 cities competing for this honor.

The City of Paducah Artist Relocation Program recruits artists—both locally and nationally—to move to Paducah's downtown and historic Lower Tower area. The city has a long history providing many buildings and facilities that, while they are in disrepair, offer significant opportunity for renovation and improvement. Artists who relocate to Paducah are given a network of resources to restore facilities.

The program is part of a long-term project to rejuvenate the City of Paducah's historic districts. Through the combined efforts of leaders in the city government, the Paducah Bank, Visitors' Bureau, PATS, local museums and businesses this program has seen tremendous success.

The city and Commonwealth are already enjoying the benefits as an estimated \$12 to \$15 million has been infused into the local economy, thanks to this program. Any visitor can see the construction and revitalization underway in this Kentucky jewel.

I wish to congratulate the leadership and vision of the City of Paducah on these tremendous honors, especially Program Founder Mark Barone, City of Paducah Planning Director Tom Barnett, City of Paducah Mayor Bill Paxton and McCracken County Judge Executive Danny Orazine. I look forward to the continued success of this great program.●

ACADEMIC DECATHLON WIN

● Mrs. BOXER. Mr. President, I am delighted to rise to acknowledge El Camino Real High School's championship win in this year's national Academic Decathlon. El Camino Real High School is located in Woodland Hills, CA. This is El Camino's third win and marks the most national titles any California student group has ever received. It is a wonderful record of which to be proud, and I extend my heartiest congratulations to everyone who made this accomplishment possible.

The Academic Decathlon is highly competitive, testing the students in 10 different subjects. The El Camino team headed to Boise, Idaho to compete against more than 300 students from 39 other American high schools and one Canadian high school to clinch the national title.

Under the leadership and tutelage of three main coaches, Melinda Owen, Mark Johnson and Rebecca Gessert, the team of eight students collectively spent more than 1,200 hours this year to prepare for the competition, including intense cramming sessions as the big event drew closer. These students sacrificed much of their free time to

represent their school, and it is clear that their work paid off.

I could not be happier for or prouder of the El Camino team, including Cassidy Ellis, Gary Fox, Jonathan Lin, Patrick Liu, Eric Rasyidi, Adam Singer, Chris Taylor, and Adrian Wittenberg. They have made their school, their district, and our entire State proud, and they have every reason to celebrate their accomplishment.

The students could not have won their title without the help of their dedicated coaches. I also salute and congratulate all the teachers, faculty, and students at El Camino who worked with this team and gave them the support they needed to achieve their goals.

Congratulations again to El Camino Real High School on this wonderful win.●

HONORING CAMILLE SCHMIDT

● Mr. CRAPO. Mr. President, I rise today to honor and congratulate an Idaho student who has achieved national recognition for exemplary volunteer service in her community. Camille Schmidt of Pocatello has been named one of the Nation's top youth volunteers by the 2004 Prudential Spirit of Community Awards program. This honor is conferred on only one high school student and one mid-level student in each State. I applaud Camille's efforts to improve her community.

Camille has spent the past 2 years working to restore windows in her school's library that were removed in the early 1980s. When Camille began attending Pocatello High School, she noticed 8-foot-tall indents in the school walls and realized they were once windows. She found yearbooks that contained pictures of the school before the windows were taken out, and was inspired to restore them. She received approval to begin working on the restoration from the superintendent, and met with an architect to discuss the project. So far, Camille has raised more than \$10,000 of the needed \$15,000 for the project. To raise the necessary funds, she has distributed brochures, spoken at class reunions and student assemblies, contacted the news media, and even obtained a grant. To date, four of the eight windows have been replaced. Next year, the student government and the National Honor Society will take over the project until all of the school's windows are restored.

Camille has demonstrated an extraordinary level of commitment and accomplishment and deserves our admiration and respect. She has played an important role in her community and serves as an example to her peers. I join with her family and friends in honoring her commitment to the state of Idaho.●

HONORING JACQUELINE SANDMEYER

● Mr. CRAPO. Mr. President, I rise today to honor and congratulate an

Idaho student who has achieved national recognition for exemplary volunteer service in her community. Jacqueline Sandmeyer of Boise has been named one of the Nation's top youth volunteers by the 2004 Prudential Spirit of Community Awards program. This honor is conferred on only one high school student and one mid-level student in each State. I applaud Jacqueline's efforts to improve her community.

Jacqueline, an eighth-grader at St. Joseph's School, has collected more than 1,000 pounds of food and 200 coats, mittens, and hats for the homeless over the past 4 years. When she was nine, Jacqueline noticed a group of children shivering in the cold outside of a rescue mission. Moved by the experience, Jacqueline packed up her winter clothes for donation, along with her saved-up allowance of \$275 to take to the shelter. With the help of her parents, she then placed collection boxes in her school and government buildings. She also solicited donations from her neighbors and appealed to her entire community for help through the news media. Jacqueline summed up my feelings well, when she said, "I know that no matter what age you are, you can make a difference."

Jacqueline has demonstrated an extraordinary level of commitment and accomplishment and deserves our admiration and respect. She has played an important role in her community and serves as an example to her peers. I join with her family and friends in honoring her commitment to the State of Idaho.●

HONORING THE LIFE OF WILLIAM R. STEWART

● Mr. BAYH. Mr. President, today I pay tribute to the life of a distinguished civil servant, Bill Stewart, who passed away on Monday, February 16, 2004. His long life was filled with acts of conscientious service on behalf of his friends, his family members and the American work force. The contributions he made through his work for the National Labor Relations Board, combined with the many lives he touched along the way, leave behind a positive legacy that will not soon be forgotten.

Bill was born in Terre Haute, IN, and earned his undergraduate degree in government from Indiana University. As an ROTC student during his time at Indiana University, Bill was commissioned as a second lieutenant in the Army shortly after his graduation. Proving at a young age that service and leadership were an inherent part of his life and personality, Bill deferred his full scholarship to the Indiana University School of Law to serve in Germany in an armored division where he was later selected to be the courts and boards officer and assistant adjutant of a combat command of more than 5,000 men. Bill excelled in everything he set his mind to, including his work as an attorney for the Atomic Energy Commission and his efforts climbing up the

ladder from legislative assistant to president of the Professional Association for the National Labor Relations Board in only 4 years.

His talent and intellect earned him the respect and attention of many. Bill was the first and only National Relations Board employee to receive the President's Award for Distinguished Federal Civilian Service, which is the highest honor attainable through civil service. President Clinton recognized Bill's "unparalleled" professional contributions, emphasizing that Bill was "instrumental in winning national labor law cases that have had a major impact on American workers."

In addition to his professional accomplishments, I am told that Bill was also a family man at heart. According to his friends and colleagues, Bill cherished the company of his loved ones and always made his parents and siblings a top priority. Undoubtedly, Bill will be remembered by all who knew him for his love of life and laughter.

Bill is survived by his two brothers, Stanley Stewart and Richard Stewart.

Bill was a man who walked with kings but never lost the common touch. The citizens of the State of Indiana and the United States of America were well served by the life led by Bill Stewart. He touched many lives over the course of his career and will be remembered as a loving friend and an incredible leader and colleague.

It is my sad duty to enter the name of William R. Stewart in the official RECORD of the United States Senate. May God be with all who mourn his passing, as I know He is with Bill.●

REMEMBERING FRANK D. STIMLEY

● Mr. COCHRAN. Mr. President, on April 14, 2004, a distinguished attorney and outstanding individual from my State died suddenly in New Orleans, LA. At the age of 56, Frank D. Stimley leaves behind a legacy of accomplishments and contributions to the State and people of Mississippi.

Frank was a native of Jackson, MI. Early in life, he turned down an opportunity to play major league baseball for the St. Louis Cardinals to attend Columbia University, where he received a bachelors degree in electrical engineering. He later joined his sister and older brother at Harvard Law School, where the Stimleys became the first family to ever have three siblings attend that law school at the same time. In addition to his law degree, Frank concurrently obtained a masters in business administration from Harvard Business School.

After graduation, Frank Stimley became the first African-American lawyer to be hired by a large majority white firm in Mississippi. He also became the first African-American lawyer at Wise Carter Child Stein and Caraway to make partner.

Frank was also a member of the 100 Black Men of Jackson, Deacon at the

Progressive Morningstar Baptist Church, and involved in providing legal assistance to Stewpot Community Services, Catholic Charities, the Parish Street Redevelopment Project, and the Friends and Children of United Way. Additionally, Frank Stimley helped secure financing for many churches, Head Start programs, medical clinics, the Jackson Redevelopment Authority, and various Mississippi development projects.

Frank Stimley was a successful lawyer and community leader whose contributions were considerable. We extend to his wife Cynthia and the entire Stimley family our sincerest condolences.●

A DELAWARE, NATIONAL, AND INTERNATIONAL JUDICIAL LEADER

● Mr. BIDEN. Mr. President, it gives me great pride and pleasure today to rise and honor a Delaware jurist who is a recognized leader not only in his native State of Delaware, but throughout this country and around the world. His name is Randy Holland.

Justice Holland has served on the Delaware Supreme Court since 1986, with the distinction of being the youngest person ever to serve on my State's highest court. And for the past four years, he has served as the National President of the American Inns of Court. His second term ends next week, and I rise today to commend his leadership to this prestigious legal society.

Justice Holland's stewardship of the American Inns of Court, with its roots dating back to England in the 1400s, has earned him an extraordinary, rare and high honor.

He is only the third American judge to recently receive this prestigious award. The other two are United States Supreme Court Justices.

Lincoln's Inn of London, England, announced that Justice Holland has been elected an Honorary Master of the Bench. The Honorary "Benchers" are persons of distinction selected from common law countries around the world. The only American judges to receive this high recognition and distinction are Justice Ruth Bader Ginsberg and John Paul Stevens of the United States Supreme Court and now Justice Holland.

In commenting upon Justice Holland's election, William Blair, a distinguished Barrister, President of the Commercial Bar Association in England, and brother of Prime Minister Tony Blair, stated "We feel that this is an important mark of friendship between the Inns of Court of England and the American Inns of Court. What is most gratifying for us is that the common aims of the organization are ethics, civility, professionalism and legal excellence—which are surely more necessary now than ever. My fellow Benchers were greatly impressed by Justice Holland's distinguished judicial record."●

To put this honor in context, Lincoln's Inn is the oldest of the four Inns of Court in London. Its formal records date back continuously to 1422. For six centuries, the Inns of Court in London have educated English trial lawyers, who are known as Barristers.

St. Thomas More, Lord Chancellor of England, joined Lincoln's Inn in 1496. The chapel bell at Lincoln's Inn came from Spain in 1596 as part of the spoils of Cadiz. When Dr. John Donne was Preacher to Lincoln's Inn in 1624, he wrote his famous poem "for whom the bell tolls."

Along with this international honor, Justice Holland has been recognized by his fellow jurists and attorneys in this country. His numerous awards include: the 1992 Judge of the Year Award from the National Child Support Enforcement Association, the 2002 Alumni Award of Merit from the University of Pennsylvania School of Law, the 2003 American Judicature Society's Herbert Harley Award, and the 2004 Widener Law School Adjunct Professor Distinguished Service Award.

Ethics and mentoring are the hallmarks of Justice Holland's service on the bench and his call to his fellow attorneys in the bar. He chaired the national Advisory Committee to the American Judicature Society's Center for Judicial Ethics and currently he chairs the American Bar Association national Joint Committee on Lawyer Regulation. Justice Holland is also a member of the American Law Institute and is an adjunct professor at several law schools.

In addition to these many accomplishments, Justice Holland has published three books on the history of the Delaware Constitution and the Delaware Supreme Court.

Of course, Justice Holland will tell you that he derives his greatest pride from his family—his wife and friend since grade school, Ilona, and his son, Ethan.

Justice Holland deserves a tremendous thank you for his leadership on the bench and bar—from Delaware, attorneys throughout this country, and indeed from jurists and barristers worldwide. Congratulations.●

2003 PRESIDENTIAL RANK AWARDS

● Mr. AKAKA. Mr. President, last week, 70 members of the Federal Government's Senior Executive Service and Senior Level and Scientific and Professional employees received the Nation's highest civil service award for their leadership accomplishments and long-term contributions to their country.

I believe it is fitting to honor these men and women during Public Service Recognition Week, which began yesterday, May 3, 2004. As noted by the Office of Personnel Management, "Winners of this prestigious award are strong leaders, professionals, and scientists who achieve results and consistently demonstrate strength, integrity, industry,

and a relentless commitment to excellence in public service." To me, these awards serve as a reminder that the federal civil service is made up of individuals who have chosen to work for the federal government and their betterment of their fellow citizens.

This year marks the first time that Senior Level and Scientific and Professional executives joined those in the Senior Executive Service in receiving awards. The winners, who were honored at a dinner sponsored by the Senior Executives Association Professional Development League last week, have saved the Federal Government over \$187 billion according to SEA President Carol A. Bonosaro. At last week's dinner, Ms. Bonosaro detailed notable achievements of the award recipients: including leading a deployment to Kosovo to gather evidence of war crimes in support of the International Criminal Tribunal for the former Yugoslavia; managing 15 nutrition assistance programs—with \$40 billion in appropriations—which reach 50 million Americans annually; serving as a Space Shuttle astronaut pilot and commander; directing the prosecution of international cartels with fines totaling more than \$42 billion and the convictions of corporate executives from the U.S. and twelve foreign countries; and serving as the scientific leader of a \$2 billion telescope mission, to be launched in 2010, with the objective of seeing the first light in the universe released after the Big Bang.

There are two categories of rank awards; distinguished and meritorious awards. For both awards, winners are chosen through a rigorous selection process which includes nomination by their agency heads, evaluation by boards of private citizens, and approval by the President. Distinguished rank award recipients receive a lump-sum payment of 35 percent of their base pay. Meritorious rank award recipients receive 20 percent of base pay.

At a time when many young people are questioning the value of public service, I urge them to explore the exciting and challenging employment opportunities with the federal government, as well as the benefits of serving their nation. As the Presidential Rank Awards demonstrated, the government values those who seek public service.

Mr. President, I ask that the names and agencies of the 2003 Presidential Rank Award winners be printed in the RECORD.

The information follows.

2003 PRESIDENTIAL RANK AWARDS FOR
DISTINGUISHED SENIOR PROFESSIONALS
DEPARTMENT OF COMMERCE

Susan Solomon

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

John A. Casciotti

Department of the Air Force

Robert Q. Fugate

Department of the Army

Walter Bryzik

Department of the Navy

Frances S. Ligler

NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION

John Mather

2003 PRESIDENTIAL RANK AWARDS FOR
DISTINGUISHED EXECUTIVES
DEPARTMENT OF AGRICULTURE

Antoinette A. Betschart

George A. Braley

DEPARTMENT OF COMMERCE

Scott B. Gudes

Timothy Hauser

Rolland A. Schmitt

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Jeanne B. Fites

Michael L. Ioffredo

Pravin C. Jain

Jeffrey A. Jones

Cheryl Joan Roby

Diana G. Tabler

Department of the Air Force

Vincent J. Russo

J. Daniel Stewart

Department of the Army

James L. Flinn, III

Joel B. Hudson

Anthony A. LaPlaca

Michael A. Parker

Department of the Navy

William M. Balderson

Bobby R. Junker

DEPARTMENT OF EDUCATION

Thomas P. Skelly

Steven Y. Winnick

DEPARTMENT OF ENERGY

James F. Decker

Patricia M. Dehmer

DEPARTMENT OF HEALTH AND HUMAN SERVICES

William Beldon

Joseph R. Carter

Dennis J. Duquette

Evelyn White

DEPARTMENT OF HOMELAND SECURITY

Donald K. Shruhan

DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT

Floyd O. May

DEPARTMENT OF THE INTERIOR

Willie R. Taylor

DEPARTMENT OF JUSTICE

James M. Griffin

Bruce C. Swartz

DEPARTMENT OF LABOR

Shelby S. Hallmark

DEPARTMENT OF STATE

Jonathan B. Schwartz

DEPARTMENT OF TREASURY

John M. Dalrymple

Donald V. Hammond

Sarah H. Ingram

Kenneth R. Papaj

Robert E. Wenzel

DEPARTMENT OF VETERANS AFFAIRS

James F. Farsetta

Thomas Lastowka

Laura J. Miller

ENVIRONMENTAL PROTECTION AGENCY

William G. Laxton

NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION

Frederick D. Gregory

Tom Luedtke

Vicki A. Novak

John J. Talone

NUCLEAR REGULATORY COMMISSION

Samuel J. Collins

Hubert J. Miller

OFFICE OF MANAGEMENT AND BUDGET

Richard P. Emery

OFFICE OF PERSONNEL MANAGEMENT

Doris L. Hauser

Nancy H. Kichak

Ronald P. Sanders

SOCIAL SECURITY ADMINISTRATION

William E. Gray

Linda S. McMahan

PETITIONS AND MEMORIALS

POM-397. A joint memorial adopted by the Legislature of the State of Washington relative to the State's military bases; to the Committee on Armed Services.

SENATE JOINT MEMORIAL 8039

Whereas, the Department of Defense's military installations in Washington State play a vital role in the defense of the United States of America and its citizens and residents, both providing a power projection platform ideally situated geographically and by providing leadership within the military through innovation in transformational efforts; and

Whereas, the military installations in Washington State are striving to perform their current missions as efficiently and effectively as possible and to improve their ability to contribute to the defense of the nation for the long term; and

Whereas, the majority of major conflicts of the 20th century have been in or around the Pacific Ocean, including World War II, the Korean War, the Vietnam War, Operation Desert Storm, and Operation Iraqi Freedom, and the emerging threats of the 21st century are in that same area; and

Whereas, each of the military installations in Washington performs vital strategic functions, including the only homeport for Trident Ballistic Missile Submarines on the Pacific Coast, the only torpedo manufacturing facility in the nation, the only deep draft military shipyard on the Pacific Coast, a major base for C-17 aircraft, the sole Air Force Survival School in the nation, the only major Army installation west of the Rocky mountains capable of large scale troop deployment, and the base with the highest number of VFR flying days of any Naval Air Station in the United States; and

Whereas, Washington State has an excellent working relationship at both the state and local level with each of the military installations, demonstrated in part by the numerous partnerships among the military and local governments and private and nonprofit sectors in providing services to both military and civilian personnel, by involvement of military installations in state and local land use, transportation and other planning, and by the ongoing community support to the military personnel and their families; and

Whereas, the military's presence, in all forms, contributes greatly to the economy, security, and social fabric of Washington State as one of the largest employers in the state, a significant purchaser of goods, services, and construction from the private sector, and a source of leadership in state, local, and community organizations; and

Whereas, Washington State consistently provides a high quality of life to military personnel stationed in our state, evidenced by the large number of terminal postings to bases in Washington State, additionally, our state benefits from the large number of skilled and talented military personnel and their families who remain in or return to Washington after leaving active duty; and

Whereas, the Washington State Legislature recognizes the importance of the Department of Defense's military installations

within Washington State, both to the defense of the United States and the vitality of Washington as an economy and a people;

Now, Therefore, Your Memorialists respectfully pray that the President, Congress, and the Department of Defense will recognize the strategic importance of these bases to our Nation's security and not make them victims of this round of the Base Realignment and Closure process.

Your Memorialists further pray that the military facilities in Washington state will continue to serve in the defense of our nation for many years to come; be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the Secretary of the Department of Defense, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM-398. A joint memorial adopted by the Legislature of the State of Washington relative to The 211 Act, HR 3111, and SB 1630; to the Committee on Commerce, Science, and Transportation.

HOUSE JOINT MEMORIAL 4040

Whereas, tens of thousands of Washington State residents have a need to access a variety of human and social service needs each day, ranging from appropriate child care to affordable housing, support for a homebound parent to food or crisis counseling for teen parents; and

Whereas, thousands of different local, regional, and statewide organizations in Washington State, both public and private, provide services that respond to these needs; and

Whereas, it is often extremely difficult and time consuming for residents to identify and access available services; and

Whereas, the process of connecting those living and working in Washington State with needed services can be simplified by the establishment of a 211 telephone dialing option; and

Whereas, the local, regional, and statewide providers of human and social services would benefit from the more accurate and timely information about needs and resources around the state that is connected by 211 services; and

Whereas, seventy million Americans (23% of the United States population) have access to 211 service in 83 communities nationwide; and

Whereas, Washington Information Network 211 seeks to create a statewide 211 system using existing information and referral providers; and

Whereas, in 2003 the Washington State Legislature overwhelmingly supported and passed an act supporting 211 development and implementation for the residents of our state; and

Whereas, 211 service will soon be available in Clark County and King County, providing 211 access to over 2,000,000 people in Washington State; and

Whereas, 4,000,000 residents in rural and economically depressed areas of Washington State will not have access to 211 service until such time that sustainable public funding is secured; and

Whereas, philanthropic contributions already support the majority of costs associated with 211 development for Washington State; and

Whereas, Congress recognizes the value and broad public benefits of 211 through the inclusion of 211 service in the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; and

Whereas, Senator Patty Murray, Senator Maria Cantwell, Representative Jay Inslee,

Representative Jim McDermott, and Representative Rick Larsen from our fair state of Washington are cosponsors of Senate Bill 1630 and House Resolution 3111;

Now, therefore, your memorialists respectfully pray that Congress immediately pass the Calling for 211 Act, HR 3111 and SB 1630; be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM-399. A joint resolution adopted by the Legislature of the State of Maine relative to the exemption of the Passamaquoddy Tribe from certain provisions of the Marine Mammal Protection Act of 1972; to the Committee on Commerce, Science, and Transportation.

JOINT RESOLUTION

We, your Memorialists, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the Second Special Session, most respectfully present and petition the Congress of the United States as follows:

Whereas, the federal Marine Mammal Protection Act of 1972 establishes federal responsibility to conserve marine mammals and established a moratorium on the taking and importation of marine mammals and marine mammal products; and

Whereas, the act gave certain exemptions to take marine mammals to Indian, Aleut and Eskimo people who live in Alaska and dwell on the coast of the North Pacific Ocean or the Arctic Ocean, if the taking is done in a nonwasteful manner and is for subsistence purposes or for creating and selling authentic native handicrafts and clothing; and

Whereas, the Passamaquoddy Tribe, a federally recognized Indian tribe in the State of Maine, the first to see the rising sun each day, has the largest reservation in the State, situated on the west branch of the St. Croix River, which leads into the sea; and

Whereas, the Passamaquoddy Tribe has used marine mammals, such as porpoises and seals, for cultural, subsistence, ceremonial, medicinal and commercial uses in its long history in the area, and still do to a certain extent today; and

Whereas, at the time the federal Marine Mammal Protection Act of 1972 was written, the Passamaquoddy Tribe had not been federally recognized and could not seek exemption from the act. In the late 1970s, federal recognition came, followed by the Maine Indian Land Claims Case, which defined a special relationship between the State of Maine and the Passamaquoddy Tribe and Penobscot Nation; and

Whereas, it was agreed that these tribes would have authority over their own internal matters on the reservations. At the same time, it was agreed that they would continue the trust relationship with the Federal Government that had been recognized during the 1970s; now, therefore, be it

Resolved, That we, your Memorialists, on behalf of the people of the State, in view of the trust that the Passamaquoddy Tribe has in the Federal Government, respectfully urge and request that the Congress of the United States give serious consideration to giving the Passamaquoddy Tribe of Maine a cultural exemption from the federal Marine Mammal Protection Act of 1972, as was done for the Alaskan Indian, Aleut and Eskimo peoples; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States Senate and to the Speaker

of the United States House of Representatives and to each member of the Marine Congressional Delegation.

POM-400. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to the use of 75-foot crib carrier log hauling equipment; to the Committee on Commerce, Science, and Transportation.

HOUSE RESOLUTION No. 168

Whereas, in the logging industry, an important industry for the state of Michigan, the crib carrier for log hauling offers an advancement that can increase the stability of loads with a new design for how the logs are arranged. In a highly competitive industry like lumbering, the new equipment represents significant progress; and

Whereas, current federal law places a 70-foot limit on the length of trucks, although a waiver has permitted the use of 75-foot equipment over the past couple of years. Until federal laws and regulations permit the use of a 75-foot truck length, sanctions will prevent the use of safer truck-trailer combinations; and

Whereas, the 75-foot equipment offers distinct safety measures not available through the 70-foot limit currently in place. Most importantly, the crib arrangement makes the load more secure, with added protection against a shifting cargo. This enhances safety along Michigan's roads; now, therefore, be it

Resolved by the house of representatives, That we memorialize the Congress of the United States and the United States Department of Transportation to permit the use of 75-foot crib carrier log hauling equipment; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, and the United States Department of Transportation.

POM-401. A resolution adopted by the House of Representatives of the State of Michigan relative to a minimum rate of return of Michigan's Federal Transportation Funding; to the Committee on Commerce, Science, and Transportation.

HOUSE RESOLUTION No. 198

Whereas, from 1956 to 2001 Michigan residents paid \$1.71 billion dollars more in gas tax money to the federal government than they received in return. Only three states have a worse return rate than Michigan for that period; and

Whereas, Michigan faces a difficult task in maintaining a transportation network that meets the many needs of the individuals and businesses of this state. This task is made much more formidable by the continuing inequity of the percentage of funds returned to the state; and

Whereas, the federal road funding act, the Transportation Equity Act of the 21st Century (TEA-21), expired on February 29, 2004; and

Whereas, the House Surface Transportation Extension Act of 2004, signed by President Bush on February 29, 2004, extends highway, safety, transit, and other programs until April 30, 2004; and

Whereas, the United States House of Representatives and the United States Senate each have bills pending to authorize a new funding system for the states; and

Whereas, in 2003, Senate Concurrent Resolution No. 1, House Concurrent Resolution No. 5, and House Resolution No. 9 all memorialized the Congress of the United States to establish a minimum rate of return of 95 percent of Michigan's federal transportation

funding for highway and transit programs. As the federal government works on the next budget, it is imperative that this issue be kept before policymakers at every level to achieve this long overdue measure of equity, now, therefore, be it

Resolved by the house of representatives, That we hereby memorialize the Congress of the United States to establish a minimum return rate of 95 percent of Michigan's federal transportation funding for highway and transit programs to bring greater fairness to the federal funding of transportation needs in Michigan; and be it further

Resolved, That we further memorialize Congress to act before the beginning of the 2004 road construction season; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-402. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Kentucky relative to the Lewis and Clark National Historical Trail; to the Committee on Energy and Natural Resources.

RESOLUTION

Whereas, in 1803, President Thomas Jefferson gained approval to form an expeditionary group to explore the Western territory of the United States; and

Whereas, the "Corps of Discovery," led by Meriwether Lewis and William Clark, embarked upon its epic adventure in April, 1805, which at its conclusion returned invaluable information relative to the peoples, wildlife, flora, and geography of the Western territory; and

Whereas, 2003 marked the bicentennial celebration of the embarkation of the Lewis and Clark Expedition; and

Whereas, Congress has seen fit to create the Lewis and Clark National Historic Trail; and

Whereas, H.R. 2327 introduced by United States Representative Goode and S. 2018 introduced by United States Senator Bunning, now pending in the 108th Congress of the United States, seek to extend the boundaries of the Lewis and Clark National Historic Trail; and

Whereas, the extension of the Lewis and Clark National Historic Trail would make the trail the largest in the national parks system; and

Whereas, an extended Lewis and Clark National Historic Trail would serve to continue the celebration of the Lewis and Clark bicentennial celebration; and

Whereas, the extension of the Lewis and Clark National Historic Trail would provide enhanced educational possibilities for all; and

Whereas, the extension of the Lewis and Clark National Historic Trail would generate an increase in tourism and tourism revenue in the states where the trail runs; and

Whereas, the proposed extension of the Lewis and Clark National Historic Trail would include specific sites in the Commonwealth of Kentucky; Now, therefore, be it

Resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby acknowledge the historic importance of the Lewis and Clark National Historic Trail and encourages each and every member of the respective chambers of the Congress of the United States to cosponsor H.R. 2327 and S. 2018 of the 108th Congress of the United States to extend the length of the trail.

Section 2. The House of Representatives encourages the subsequent passage of H.R. 2327 and S. 2018 of the 108th Congress of the United States.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution of Jeff Trandahl, Clerk of the House of Representatives, United States Capitol, Room H154, Washington, D.C. 20515-6601 and to Emily Reynolds, Secretary of the Senate, United States Senate, Washington, D.C. 20510, for distribution to the members of the United States House of Representatives and the United States Senate, respectively.

POM-403. A concurrent resolution adopted by the House of Representatives of the General Assembly of the States of Ohio relative to the Abandoned Mine Land Fund; to the Committee on Energy and Natural Resources.

HOUSE CONCURRENT RESOLUTION NO. 31

Whereas, since 1800, substantial mining has occurred in Ohio, providing fuel for the United States' industrial revolution and support for two world war efforts. The mining industry also has been a major employer of the state's citizens for many of the years since 1800. However, the cumulative effects of past mining have caused significant environmental problems; and

Whereas, the Surface Mining Control and Reclamation Act of 1977 created the Abandoned Mine Land Reclamation Program to help protect public health and safety and to restore lands and waters adversely affected by mining practices employed prior to August 3, 1977. The Program is funded by fees on coal production, which are deposited by the United States Secretary of the Interior into the Abandoned Mine Land Fund. As of March 31, 2003, more than \$6.7 billion in fees have been deposited into the Fund, of which more than \$1.4 billion remains to be appropriated to the states. The \$1.4 billion includes more than \$938 million in state and Indian tribal share funds. Ohio's state share is more than \$22 million; and

Whereas, the expenditure of abandoned mine land funds on various reclamation projects by the twenty-three states and three Indian tribes that have federally approved abandoned mine reclamation programs has significantly improved public health and safety and the environment. In addition, that expenditure has provided an estimated 6,000 jobs and \$130 million in economic benefits to the Appalachian region of Ohio alone; and

Whereas, authority to collect the fee for abandoned mine reclamation is scheduled to expire on September 30, 2004, eliminating additional revenue for the Abandoned Mine Land Reclamation Program. However, \$6.6 billion worth of identified health and safety problems remain nationally, including 203 million in inventoried problems in Ohio such as abandoned strip mines, mine openings, landslides, and flooding. In addition to these nationally identified health and safety problems, 1,300 miles of Ohio streams polluted by acid mine drainage and potential subsidence from 6,000 abandoned underground mines exist; and

Whereas, the people living in the country's mining regions, including Ohio's mining region, have the right to a safe environment, including clean drinking water and healthy streams in viable communities; now therefore be it

Resolved, that we, the members of the 125th General Assembly of the State of Ohio, urge Congress to reauthorize abandoned mine land fee collection authority for a minimum of twelve years, commencing October 1, 2004, to disperse state and tribal shares of annual

fee collections each year without appropriation, and, in keeping faith with the goals of the Surface Mining Control and Reclamation Act of 1977, to provide eligible states and Indian tribes their lawful shares of the unappropriated balance in the Abandoned Mine Land Fund, after due consideration for the United Mine Workers of America Combined Benefit Fund, so that they may further protect public health and safety and enhance the environment of their states and tribal lands; and to consider reevaluating the administration of the Abandoned Mine Land Reclamation Program and the Abandoned Mine Land Fund; and be it further

Resolved, that the Clerk of the House of Representatives transmit copies of this resolution to the Speaker and Clerk of the United States House of Representatives, to the President Pro Tempore and the Secretary of the United States Senate, to the members of the Ohio Congressional delegation, and to the news media of Ohio.

POM-404. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Kentucky relative to the construction of Interstate 66 through the Purchase Area of Western Kentucky; to the Committee on Environment and Public Works.

RESOLUTION

Whereas, Kentucky lies in the heart of our nation and at the crossroads of the industrial North, the Eastern Seaboard, and the burgeoning Sunbelt; and

Whereas, transportation of goods and persons by ground has become increasingly important to the economy of our great nation; and

Whereas, the U.S. Interstate Highway System is one of the greatest engineering accomplishments in the history of mankind and has made our nation's system of highways the best in the world; and

Whereas, with its location on both the Ohio and Mississippi Rivers, the Purchase Area of Western Kentucky is situated at a crucial point in America's intermodal transportation system; and

Whereas, plans are underway for the development of Interstate 66, with a projected route through Southern Kentucky; and

Whereas, current changes in these plans have resulted in Interstate 66 ending at Interstate 24 before it enters the Purchase Area; and

Whereas, the extension of this route through the Purchase Area and into Missouri is crucial to fully realizing the benefits of an intermodal transportation system utilizing interstate highways, rail lines, and the many Kentucky riverports in the area; and

Whereas, it is vital that our national leaders understand the importance and urgency of this situation; Now, therefore, be it

Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, urge the United States Congress to plan for and fund the design and construction of Interstate 66 through the Purchase Area of Kentucky and into Missouri.

Section 2. The Clerk of the Senate is directed to transmit a copy of this Resolution to the Clerk of the United States Senate, the Clerk of the United States House of Representatives, and to each member of Kentucky's Congressional delegation.

POM-405. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Kentucky relative to the construction of Interstate 66 through the Purchase Area of Western Kentucky; to the Committee on Environment and Public Works.

RESOLUTION

Whereas, Kentucky lies in the heart of our nation and at the crossroads of the industrial North, the Eastern Seaboard, and the burgeoning Sunbelt; and

Whereas, transportation of goods and persons by ground has become increasingly important to the economy of our great nation; and

Whereas, the U.S. Interstate Highway System is one of the greatest engineering accomplishments in the history of mankind and has made our nation's system of highways the best in the world; and

Whereas, with its location on both the Ohio and Mississippi Rivers, the Purchase Area of Western Kentucky is situated at a crucial point in America's intermodal transportation system; and

Whereas, plans are underway for the development of Interstate 66, with a projected route through Southern Kentucky; and

Whereas, current changes in these plans have resulted in Interstate 66 ending at Interstate 24 before it enters the Purchase Area; and

Whereas, the extension of this route through the Purchase Area Counties of McCracken and Ballard and into Missouri is crucial to fully realizing the benefits of an intermodal transportation system utilizing interstate highways, rail lines, and the many Kentucky riverports in the area; and

Whereas, it is vital that our national leaders understand the importance and urgency of this situation: Now, therefore, be it

Resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, urge the United States Congress to plan for and fund the design and construction of Interstate 66 from Interstate 24 through McCracken and Ballard counties in Kentucky and into Missouri, with a bridge over the Mississippi River near Wickliffe.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Clerk of the United States Senate, the Clerk of the United States House of Representatives, each member of Kentucky's Congressional delegation, and to Kentucky Transportation Cabinet Secretary Maxwell C. Bailey.

POM-406. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to the Great Lakes Controlled Data Collection and Monitoring Act; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 128

Whereas, the Great Lakes constitute a critically important resource for our nation. The long-term health of this vast and complicated freshwater network is fundamental to the quality of life through its impact on public health, commerce, transportation, and recreation; and

Whereas, the ongoing challenge of protecting the Great Lakes is complicated by the many threats the lakes face, the number of units of government within its basin, and inconsistencies in how data on the water is gathered, assessed, and acted upon; and

Whereas, in spite of the efforts of many public entities committed to protecting the Great Lakes, there is insufficient and inconsistent data on the impact that restoration efforts are having on water quality. The lack of data was confirmed by the General Accounting Office in a May 2003 report. Without reliable information, it is impossible to determine to what extent the Great Lakes Water Quality Agreement between our nation and Canada is progressing or whether

federal and state water quality standards and programs are effective; and

Whereas, legislation is pending in Congress that would directly address the issue of how data on the Great Lakes is collected and assessed. The Great Lakes Controlled Data Collection and Monitoring Act, H.R. 2668, would direct the Great Lakes National Program Office of the Environmental Protection Agency to develop, implement, monitor, and report on indicators of water quality and related environmental factors in the Great Lakes. The legislation also authorizes appropriations to carry out this much-needed work; now, therefore, be it

Resolved by the House of Representatives. That we memorialize the Congress of the United States to enact the Great Lakes Controlled Data Collection and Monitoring Act; and be it further

Resolved. That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-407. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to the gap between services offered to children in kinship care arrangements and services offered to children in foster care situations; to the Committee on Finance.

HOUSE RESOLUTION NO. 27

Whereas, the 2000 Census confirmed the trend that increasing numbers of children are being raised by grandparents. In many of these situations, a grandparent or other relative is raising one or more children as an alternative to foster placement. While such situations offer many advantages to children and save the state a considerable amount of money, public policies recognizing these realities are inadequate; and

Whereas, there is a serious gap between the level of services offered to children in kinship care situations and those in foster care arrangements. While some children in kinship care can be eligible for support through the TANF program, the level of assistance through child-only grants is notably lower; and

Whereas, the gap between assistance offered to poor children being raised by a family member rather than a foster family is especially evident in eligibility for food programs, specifically school lunch programs. Indeed, the potential for harm to children living in situations where access to good nutrition is not assured represents a serious threat in our society. Addressing this problem by increasing access to school lunch programs for children living in kinship care arrangements is most appropriate; now, therefore, be it

Resolved by the House of Representatives. That we memorialize the Congress of the United States to address the gap between services offered to children in kinship care arrangements and services offered to children in foster care situations, specifically by extending access to free school lunch programs for more children living in kinship care; and be it further

Resolved. That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-408. A resolution adopted by the House of Representatives of the Legislature of the State of Utah relative to urging Congress to consider withdrawing the United States from the United Nations; to the Committee on Foreign Relations.

HOUSE JOINT RESOLUTION 3

Whereas, the United States is known for its compassionate people who are generous and kind in caring for the needs of those in other countries and whose resources are used worldwide to alleviate hunger and poverty;

Whereas, United States military forces are called upon to bear the brunt of any conflicts that may arise, which costs the lives of many American armed forces members, while other nations stay on the sidelines;

Whereas, the United States provides the largest share of the financial burden for the United Nations, amounting to hundreds of millions or even billions of dollars each year which could be used to address many of the nation's own needs;

Whereas, many of the countries who are members of the United Nations are not only unfriendly to the United States, but also support ideas and interests that are detrimental to the United States;

Whereas, member nations that are among the worst human rights violators are members of, and even chair, the committee to investigate human rights violations while the United States is denied membership;

Whereas, the secretary-general of the United Nations, as well as most other leaders and committee chairs, are chosen from nations who do not share the values of the United States, but this nation is expected to follow their decisions and programs;

Whereas, the United States was founded, and the constitution was created, for the purpose of protecting freedoms and God-given rights and for protecting the nation's values and way of life;

Whereas, the United States was created to be independent from, not subject to, the laws and rules of other nations;

Whereas, the United Nations has further imperiled the sovereignty of the United States' military serving abroad by adopting an International Criminal Court, which violates both the Uniform Code of Military Justice and the United States Constitution;

Whereas, the International Criminal Court has no legitimate authority and lacks any body of laws by which to adjudicate cases since the authority to enact laws rests with sovereign nations;

Whereas, the International Criminal Court merges the functions of prosecutor and adjudicator into one office, which is contrary to the United States Constitution;

Whereas, the International Criminal Court fails to provide any appeal from adjudication at the trial level and fails to provide for a trial by jury;

Whereas, the International Criminal Court fails to provide that the accused be confronted by his or her accusers, providing instead for the use of hearsay evidence;

Whereas, the International Criminal Court fails to provide for the accused the right to compel the production of witnesses;

Whereas, the International Criminal Court allows evidence obtained from the accused by compulsion;

Whereas, the International Criminal Court denies other fundamental rights recognized in the constitutional jurisprudence of the United States;

Whereas, even though the United States has not signed the agreement to abide by the decisions of the International Criminal Court, when two-thirds of the member nations sign, it will be binding on all members,

Whereas, the United States Constitution, which provides America with the greatest form of government known to humankind, and which was made possible and protected by much sacrifice and bloodshed throughout the nation's history, is not recognized as a governing document by the United Nations;

Whereas, the continual use of the nation's resources and armed forces to enforce its resolutions and to police the world as a result

of failed United Nations peace overtures may eventually weaken the United States to the point where it can no longer defend its freedoms;

Whereas, the absolute failure of the United Nations to support the United States in the war against terrorism in Iraq is but the latest affront to the citizens of the United States; and

Whereas, the United States has more to lose than it can gain by continuing as a member of the United Nations: Now, therefore, be it

Resolved, That because the United Nations exercises power and authority to override the sovereignty and self determination of the people of our Nation the Legislature of the state of Utah respectfully but firmly requests that the United States Congress consider dissolving the membership of the United States in the United Nations, thereby freeing the nation from a large financial burden and retaining the nation's sovereignty to decide what is best for the nation and determine what steps it considers appropriate as the leader of the free world in full control of its armed forces and destiny: be it further

Resolved, That a copy of this resolution be sent to the President of the United States Senate, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the President of the United States, and to the members of Utah's congressional delegation.

POM-409. A joint resolution adopted by the Legislature of the State of Tennessee relative to United States government uniforms and equipment; to the Committee on Governmental Affairs.

SENATE JOINT RESOLUTION NO. 64

Whereas, it is with great pride and honor that the hardworking employees of American factories craft the uniforms and equipment that clothe and protect the members of the United States government; and

Whereas, to take that privilege away from those Americans who ceaselessly toil to fulfill their patriotic duty to the men and women who serve our fine country is a grievous insult to the American people; and

Whereas, on October 28, 2002, Fechheimer Brothers Manufacturing Company in Martin learned that one of its largest accounts, the United States Postal Service, had certified a new supplier of postal uniforms, San Francisco Knitting Mills—one that cuts costs by manufacturing the product outside the United States; and

Whereas, according to a memo from Fechheimer President and CEO, Brad Kinstler, San Francisco Knitting Mills is "the first manufacturer to venture outside of the U.S. to make products for the postal market," an action which may result in setting a dangerous precedent; and

Whereas, the Fechheimer-Martin plant, formerly Martin Manufacturing Company, is one of four plants owned by the Fechheimer Corporation of Cincinnati; and

Whereas, three of the plants: Martin, Tennessee; Jefferson, Pennsylvania; and Grantsville, Maryland; manufacture uniform shirts. The corporation's plant in Hodgenville, Kentucky manufactures uniform trousers; and

Whereas, twenty percent of the Fechheimer Brothers Manufacturing Company's annual production consists of the postal service's purchases; the loss of the contract with the postal service could result in massive layoffs at the plant, possibly up to twenty percent of the company's 200 workers, which would then put a crimp in the local economy; and

Whereas, plant manager Marc Lemacks describes Fechheimer Brothers Manufacturing

Company as the "Cadillac of the industry," a corporation that consistently provides its clients and customers with quality products and service; and

Whereas, Mr. Lemacks is aware of no complaints from the United States Postal Service in regards to the uniforms produced by his company; instead, he fears the postal service's decision to change suppliers is based on an attempt to secure a lower price with an offshore company; and

Whereas, not only will transferring production of postal service uniforms to another country rob the American people of their jobs and livelihoods, but it will result in a decrease in revenue to the American government through the loss of taxes paid by American workers; and

Whereas, it is crucial that the production of uniforms and equipment for United States government workers remain in American factories, for the producing and wearing of American-made products strengthens the morale of both government and civil service workers, boosts the country's economy, and manifests the pride of the American government toward its citizens: Now, therefore, be it

Resolved by the Senate of the One Hundred Third General Assembly of the State of Tennessee, the House of Representatives concurring, That we respectfully urge the Congress of the United States to resolve this important issue and require that government uniforms and equipment be manufactured in the United States, thus saving the jobs of myriad Americans and strengthening the national economy: be it further

Resolved, That appropriate copies of this resolution be transmitted forthwith to the President of the United States, the Speaker and the Clerk of the United States House of Representatives, the President and the Secretary of the United States Senate, and to each member of the Tennessee Congressional Delegation.

POM-410. A joint resolution adopted by the Legislature of the State of Maine relative to the protection of civil liberties and the security of the United States; to the Committee on Governmental Affairs.

JOINT RESOLUTION

Whereas, the State of Maine recognizes that the Constitution of the United States is our charter of liberty and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, including the freedoms of religion, speech, assembly and privacy; and

Whereas, each of Maine's duly elected public servants has sworn to defend and uphold the Constitution of the United States and the Constitution of Maine; and

Whereas, the State of Maine denounces and condemns all acts of terrorism, wherever occurring; and

Whereas, attacks against Americans such as those that occurred on September 11, 2001 have necessitated the crafting of effective laws to protect the public from terrorist attacks; and

Whereas, any new security measures of federal, state and local governments should be carefully designed and employed to enhance public safety without infringing on the civil liberties and rights of any citizen of the State of Maine and the nation; and

Whereas, matters relating to immigration are primarily federal in nature; and

Whereas, certain provisions of the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001," commonly referred to as the USA PATRIOT Act, allow the Federal Government more liberally to detain and investigate citizens and engage in

surveillance activities that may violate or offend the rights and liberties guaranteed by our state and federal constitutions; now, therefore, be it

Resolved, That We, the Members of the Maine State Legislature reaffirm our sworn oaths to defend the Constitution of the United States and the Constitution of Maine and our solemn commitment to continue to protect and champion the rights and liberties of Maine citizens that are guaranteed under the state and federal constitutions, including freedom of expression; the right to free access to public information; freedom of association, including the ability to attend meetings without being monitored or belong to an organization without fear of reprisal; freedom from unreasonable searches and seizures, including wiretapping and monitoring of medical records and library records; due process protections, including protection against detention without charges or targeting based on race, religion, ethnicity or national origin; and the right to property, including protection against seizure or freezing of assets; and be it further

Resolved, That the Maine State Legislature urges the Federal Government to continue to exercise its jurisdiction over immigration matters and encourages the Federal Government to work cooperatively with the states to provide assistance and training necessary to protect our country; and be it further

Resolved, That laws passed by the United States Congress to specifically combat the threat of international terrorism should not be used in conducting domestic law enforcement; and be it further

Resolved, That the Maine State Legislature implores the United States Congress to review provisions in the USA PATRIOT Act and other measures that may infringe on civil liberties and ensure any pending and future federal measures do not infringe on Americans' civil rights and liberties; and be it further

Resolved, That the Legislature calls upon our United States Representatives and Senators to monitor the implementation of the USA PATRIOT Act and related federal actions and, if necessary, repeal those sections of the USA PATRIOT Act and related federal measures that may infringe upon fundamental rights and liberties as recognized in the United States Constitution and its amendments; and be it further

Resolved, That official copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States; the Honorable John Ashcroft, Attorney General of the United States; the Honorable John E. Baldacci, Governor of the State of Maine; Richard Cheney, President of the United States Senate; Dennis Hastert, Speaker of the United States House of Representatives and each member of the Maine Congressional Delegation.

POM-411. A joint memorial adopted by the Legislature of the State of Washington relative to a postage stamp commemorating American coal miners; to the Committee on Governmental Affairs.

HOUSE JOINT MEMORIAL 4007

Whereas, since the birth of this country, our nation owes our coal miners a debt we could never begin to repay for the difficult and dangerous job they perform so we could have the fuel we need to operate our industries and heat our homes; and

Whereas, the energy needs of communities throughout the nation have been met due to the hard work and dedication of American coal miners; and

Whereas, millions of workers toiled in the nation's coal mines over the last century,

risking both life and limb to fuel the nation's economic expansion, and through their manual labor made possible the technological conveniences of modern American life, though those contributions to the nation's welfare are generally unknown to the public; and

Whereas, during the last century, over 100,000 coal miners have been killed in mining accidents in the nation's coal mines, and 3,500,000 coal miners have suffered nonfatal injuries; and

Whereas, 100,000 coal miners have contracted Black Lung Disease as a direct result of their toil in the nation's coal mines; and

Whereas, coal provides 50 percent of the nation's electricity and is an essential fuel for industries such as steel, cement, chemical, food, and paper; and

Whereas, coal miners keep the nation supplied with an energy resource that produces electricity for the lowest cost, when compared to fuels other than nuclear, and which makes possible the country's unmatched productivity and prosperity; and

Whereas, coal miners provide a vital pool of labor with the expertise to produce energy supplies from vast national coal reserves, which serves to buffer the country from a dangerous dependence on foreign energy fuels; and

Whereas, the United States has a demonstrated coal reserve of more than 500,000,000,000 tons, with an estimated 275,000,000,000 tons of recoverable reserves which, at current production rates, represents about 275 years of recoverable coal reserves; and

Whereas, these coal reserves represent about 95 percent of all fossil fuel reserves in the United States, about one-fourth of the world's known coal reserves; and

Whereas, approximately two-thirds of all coal mined in the United States is transported by rail, making coal the largest single source of freight revenue for United States' railroads; and

Whereas, transportation by railroad provided jobs for thousands of workers who built the infrastructure, maintained it, and loaded and unloaded coal; and

Whereas, it would be proper and fitting for our nation to recognize our coal miners, both past and present, for their contributions to this nation; and

Whereas, coal mining continues to be the economic engine for many communities, providing jobs to areas with little economic diversity; and

Whereas, coal mining provides an economic benefit far beyond its direct revenue, including billions of dollars in economic output and household earnings and hundreds of thousands of jobs in other industries; now, therefore, your Memorialists respectfully pray that the United States Postal service issue a postage stamp commemorating American coal miners, which would hold the promise of illustrating a colorful and historically rich segment of society for the benefit of school children, stamp collectors, educators, and the public; be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the United States Postmaster General, the Citizens' Stamp Advisory Committee of the United States Postal Service, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM-412. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to funding for the National Recovery Training Institute in Louisiana; to the Committee on Health, Education, Labor, and Pensions.

HOUSE CONCURRENT RESOLUTION NO. 18

Whereas, there is a need for national support in the addiction recovery community to improve the health, safety, and quality of life for individuals in addiction recovery; and

Whereas, HopeNetworks is requesting federal funding to establish a National Recovery Training Institute in Louisiana; and

Whereas, the institute would provide technology resources to aid in the development of tools to be used by recovering communities for empowerment, long-term sobriety, and recovery; provide education to recovering communities across the nation; provide education and awareness to stakeholders such as policymakers, business leaders, and the faith community; and provide technology and job training scholarships for person in early recovery to learn job skills and life skills while at the institute; and

Whereas, the socioeconomic impact of addiction is more than four hundred forty billion dollars every year to the United States; and

Whereas, the National Recovery Training Institute in Louisiana will serve as a public health, education, and training center for millions of people across the United States; Therefore, be it

Resolved, That the Louisiana Legislature does hereby memorialize the United States Congress to allocate funding for the creation of the National Recovery Institute; be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Committee on Finance, with an amendment in the nature of a substitute:

S. 882. A bill to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes (Rept. No. 108-257).

By Mr. LUGAR, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and with an amended preamble:

S. Con. Res. 99. A concurrent resolution condemning the Government of the Republic of the Sudan for its participation and complicity in the attacks against innocent civilians in the impoverished Darfur region of western Sudan.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Treaty Doc. 108-22 Additional Protocol Concerning Business and Economic Relations with Poland (Exec. Rpt. N. 108-13)

The text of the resolution of ratification as reported by the Committee on Foreign Relations:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Additional Protocol Between the United States of America and the Republic of Poland to the Treaty Between the United States of America and the Republic of Poland Concerning Business and Economic Relations of March

21, 1990, signed at Brussels on January 12, 2004 (T. Doc. 108-22).

Treaty Doc. 108-21 Additional Investment Protocol with Lithuania (Exec. Rept. No. 108-13)

The text of the resolution of ratification as reported by the Committee on Foreign Relations:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Additional Protocol Between the Government of the United States of America and the Government of the Republic of Lithuania to the Treaty for the Encouragement and Reciprocal Protection of Investment of January 14, 1998, signed at Brussels on September 22, 2003 (T. Doc. 108-21).

Treaty Doc. 108-20 Additional Investment Protocol with the Latvia (Exec. Rept. No. 108-13)

The text of the resolution of ratification as reported by the Committee on Foreign Relations:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Additional Protocol Between the Government of the United States of America and the Government of the Republic of Latvia to the Treaty for the Encouragement and Reciprocal Protection of Investment of January 13, 1995, signed at Brussels on September 22, 2003 (T. Doc. 108-20).

Treaty Doc. 108-19 Additional Investment Protocol with the Slovak Republic (Exec. Rept. No. 108-13)

The text of the resolution of ratification as reported by the Committee on Foreign Relations:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Additional Protocol Between the United States of America and the Slovak Republic to the Treaty Between the United States of America and the Czech and Slovak Federal Republic Concerning the Reciprocal Encouragement and Protection of Investment of October 22, 1991, signed at Brussels on September 22, 2003 (T. Doc. 108-19).

Treaty Doc. 108-18 Additional Investment Protocol with the Czech Republic (Exec. Rept. No. 108-13)

The text of the resolution of ratification as reported by the Committee on Foreign Relations:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Additional Protocol Between the United States of America and the Czech and Slovak Federal Republic Concerning the Reciprocal Encouragement and Protection of Investment of October 22, 1991, signed at Brussels on December 10, 2003 (T. Doc. 108-18).

Treaty Doc. 108-17 Investment Protocol with Estonia (Exec. Rept. No. 108-13)

The text of the resolution of ratification as reported by the Committee on Foreign Relations:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Protocol Between the Government of the United States of America and the Government of the Republic of Estonia to the Treaty for the Encouragement and Reciprocal Protection of

Investment of April 19, 1994, signed at Brussels on October 24, 2003 (T. Doc. 108-17).

Treaty Doc. 108-15 Additional Protocol Amending Investment Treaty with Bulgaria

The text of the resolution of ratification as reported by the Committee on Foreign Relations:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Additional Protocol Between the United States of America and the Republic of Bulgaria Amending the Treaty Between the United States of America and the Republic of Bulgaria Concerning the Encouragement and Reciprocal Protection of Investment of September 23, 1992, signed at Brussels on September 22, 2003 (T. Doc. 108-15).

Treaty Doc. 108-13 Additional Protocol to Investment Treaty with Romania

The text of the resolution of ratification as reported by the Committee on Foreign Relations:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Additional Protocol Between the Government of the United States of America and the Government of Romania Concerning the Reciprocal Encouragement and Protection of Investment of May 28, 1992, signed at Brussels on September 22, 2003 (T. Doc. 108-13).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BUNNING (for himself and Mr. MILLER):

S. 2376. A bill to amend the Internal Revenue Code of 1986 to repeal the scheduled restrictions in the child tax credit, marriage penalty relief, and 10 percent rate bracket, and for other purposes; to the Committee on Finance.

By Mr. JEFFORDS (for himself and Mr. SARBANES):

S. 2377. A bill to amend the Safe Drinking Water Act to ensure that the District of Columbia and States are provided with a safe, lead free supply of drinking water; to the Committee on Environment and Public Works.

By Mr. REID (for himself and Mr. ENSIGN):

S. 2378. A bill to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport; to the Committee on Energy and Natural Resources.

By Mr. HAGEL (for himself and Mr. NELSON of Nebraska):

S. 2379. A bill to authorize an additional district judgeship for the district of Nebraska; to the Committee on the Judiciary.

By Mr. SUNUNU (for himself, Mr. STEVENS, Mr. WARNER, and Mr. GREGG):

S. 2380. A bill to authorize the President to issue posthumously to the late William "Billy" Mitchell a commission as major general, United States Army; to the Committee on Armed Services.

By Mr. KENNEDY (for himself, Mr. FEINGOLD, and Mrs. CLINTON):

S. 2381. A bill to provide for earned adjustment to reward work, reunify families, establish a temporary worker program that protects United States and foreign workers and strengthen national security under the immigration laws of the United States; to the Committee on the Judiciary.

By Mr. INOUE:

S. 2382. A bill to establish grant programs for the development of telecommunications capacities in Indian country; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY (for himself, Mr. LEAHY, Mr. DURBIN, Mr. FEINGOLD, Mr. CARPER, and Mr. BIDEN):

S. Res. 349. A resolution recognizing and honoring May 17, 2004, as the 50th anniversary of the Supreme Court decision in *Brown v. Board of Education of Topeka*; to the Committee on the Judiciary.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 350. A resolution to authorize the production of records by the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs; considered and agreed to.

By Mr. GREGG (for himself, Mr. LIEBERMAN, Mr. FRIST, Mr. CARPER, Mrs. DOLE, Mr. SUNUNU, Mr. ALEXANDER, Mr. DOMENICI, Mr. CRAIG, Mr. COLEMAN, Ms. LANDRIEU, Mr. DURBIN, Mr. DEWINE, and Mr. BROWNBACK):

S. Res. 351. A resolution congratulating charter schools and their students, parents, teachers, and administrators across the United States for their ongoing contributions to education, and for other purposes; considered and agreed to.

By Ms. MURKOWSKI (for herself, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Ms. COLLINS, Mrs. DOLE, Mrs. FEINSTEIN, Mrs. HUTCHISON, Ms. LANDRIEU, Mrs. LINCOLN, Ms. MIKULSKI, Mrs. MURRAY, Ms. SNOWE, and Ms. STABENOW):

S. Con. Res. 103. A concurrent resolution honoring the contribution of the women, symbolized by "Rosie the Riveter", who served on the homefront during World War II, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 952

At the request of Mr. CORZINE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 952, a bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident-physicians to ensure the safety of patients and resident-physicians themselves.

S. 976

At the request of Mr. WARNER, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Kansas (Mr. ROBERTS), the Senator from Nevada (Mr. REID), the Senator from Missouri (Mr. BOND), the Senator from Nebraska (Mr. HAGEL) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 1223

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a co-

sponsor of S. 1223, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 1393

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1393, a bill to amend the Richard B. Russell National School Lunch Act to reauthorize and expand the fruit and vegetable pilot program.

S. 1512

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1512, a bill to amend the Internal Revenue Code of 1986 to exclude from income and employment taxes and wage withholding property tax rebates and other benefits provided to volunteer firefighters and emergency medical responders.

S. 1645

At the request of Mr. CRAIG, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1755

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1755, a bill to amend the Richard B. Russell National School Lunch Act to provide grants to support farm-to-cafeteria projects.

S. 1792

At the request of Mr. DOMENICI, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 1792, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 1798

At the request of Mr. HOLLINGS, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 1798, a bill to provide for comprehensive fire safety standards for upholstered furniture, mattresses, bedclothing, and candles.

S. 1804

At the request of Mr. BREAU, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1804, a bill to reauthorize programs relating to sport fishing and recreational boating safety, and for other purposes.

S. 1934

At the request of Mr. NICKLES, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1934, a bill to establish an Office of Intercountry Adoptions within the Department of State, and to reform United States laws governing intercountry adoptions.

S. 2065

At the request of Mr. JOHNSON, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2065, a bill to restore health care coverage to retired members of the uniformed services, and for other purposes.

S. 2091

At the request of Mr. FRIST, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2091, a bill to improve the health of health disparity population.

S. 2132

At the request of Mr. FEINGOLD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2132, a bill to prohibit racial profiling.

S. 2165

At the request of Mr. REED, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2165, a bill to specify the end strength for active duty personnel of the Army as of September 30, 2005.

S. 2261

At the request of Mr. DEWINE, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 2261, a bill to expand certain preferential trade treatment for Haiti.

S. 2264

At the request of Mr. FEINGOLD, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Kansas (Mr. BROWNBACK), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 2264, a bill to require a report on the conflict in Uganda, and for other purposes.

S. 2265

At the request of Mr. ROBERTS, the names of the Senator from Illinois (Mr. FITZGERALD) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2265, a bill to require group and individual health plans to provide coverage for colorectal cancer screenings.

S. 2283

At the request of Mr. GREGG, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2283, a bill to extend Federal funding for operation of State high risk health insurance pools.

S. 2292

At the request of Mr. VOINOVICH, the names of the Senator from Florida (Mr. NELSON), the Senator from Illinois (Mr. DURBIN) and the Senator from Kansas

(Mr. BROWNBACK) were added as cosponsors of S. 2292, a bill to require a report on acts of anti-Semitism around the world.

S. 2298

At the request of Mr. BREAUX, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2298, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes.

S. 2328

At the request of Mr. DORGAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2328, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

S. 2339

At the request of Mr. CORZINE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2339, a bill to amend part D of title XVIII of the Social Security Act to improve the coordination of prescription drug coverage provided under retiree plans and State pharmaceutical assistance programs with the prescription drug benefit provided under the medicare program, and for other purposes.

S. 2352

At the request of Ms. LANDRIEU, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2352, a bill to prevent the slaughter of horses in and from the United States for human consumption by prohibiting the slaughter of horses for human consumption and by prohibiting the trade and transport of horseflesh and live horses intended for human consumption, and for other purposes.

S. 2373

At the request of Mr. DOMENICI, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2373, a bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names.

S.J. RES. 28

At the request of Mr. CAMPBELL, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

S.J. RES. 33

At the request of Mr. BROWNBACK, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S.J. Res. 33, a joint resolution expressing support for freedom in Hong Kong.

S.J. RES. 36

At the request of Mrs. FEINSTEIN, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from Washington (Mrs. MURRAY) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S.J. Res. 36, a joint resolution approving the renewal

of import restrictions contained in Burmese Freedom and Democracy Act of 2003.

S. CON. RES. 78

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Con. Res. 78, a concurrent resolution condemning the repression of the Iranian Baha'i community and calling for the emancipation of Iranian Baha'is.

S. CON. RES. 83

At the request of Mr. BIDEN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Con. Res. 83, a concurrent resolution promoting the establishment of a democracy caucus within the United Nations.

S. CON. RES. 100

At the request of Mr. ALEXANDER, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Nebraska (Mr. HAGEL), the Senator from Michigan (Mr. LEVIN) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. Con. Res. 100, a concurrent resolution celebrating 10 years of majority rule in the Republic of South Africa and recognizing the momentous social and economic achievements of South Africa since the institution of democracy in that country.

S. RES. 164

At the request of Mr. ENSIGN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. RES. 269

At the request of Mr. LEVIN, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Maryland (Mr. SARBANES) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Res. 269, a resolution urging the Government of Canada to end the commercial seal hunt that opened on November 15, 2003.

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. Res. 269, supra.

S. RES. 331

At the request of Mrs. DOLE, her name was added as a cosponsor of S. Res. 331, a resolution designating June 2004 as "National Safety Month".

AMENDMENT NO. 2941

At the request of Mr. THOMAS, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 2941 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to

reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 3109

At the request of Mr. WYDEN, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Illinois (Mr. DURBIN), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Louisiana (Mr. BREAU) were added as cosponsors of amendment No. 3109 proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

At the request of Ms. CANTWELL, her name was added as a cosponsor of amendment No. 3109 proposed to S. 1637, *supra*.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUNNING (for himself and Mr. MILLER):

S. 2376. A bill to amend the Internal Revenue Code of 1986 to repeal the scheduled restrictions in the child tax credit, marriage penalty relief, and 10 percent rate bracket, and for other purposes; to the Committee on Finance.

Mr. BUNNING. Mr. President, I rise today to introduce The Working Family Tax Relief Act of 2004. I would like to thank my colleague, Senator MILLER, for his support of this important legislation. His leadership has laid the foundation of bipartisan support that this critical tax bill and working American families deserve.

Tax relief has contributed to economic growth throughout our economy. We have successfully encouraged companies to create more jobs and Americans to save and spend more. The President's tax cuts and our votes here in the Senate helped to revive an economy that was sagging in 2000 and shocked by the tragedies of September 11, 2001.

We put a plan in place in 2001 to help the American family to keep more of the money they work so hard to earn. In 2003, Congress saw fit to accelerate the effective date of some of this family tax relief in order to give these families this help as quickly as possible. As a result, every American family who paid any income taxes during 2003 saw a reduction in their taxes and they will enjoy those lower taxes for this year as well. However, if we do not act this year, America's working families will face a tax increase next year. We cannot allow this to happen.

The lowest-income Americans have benefited dramatically from the new 10 percent tax bracket. Today, thanks to this new bracket, working Americans are keeping more of their hard-earned paychecks. But if we do nothing, taxpayers with as little as \$7,000 in taxable income could face a tax increase next

year. My legislation proposes to keep the current 10 percent tax rate bracket in place rather than allowing it to shrink and increase taxes on the working families of America. This extension could bring relief to as many as 1.2 million people in Kentucky and millions of others throughout the country.

And, if we do nothing, the child tax credit will be cut by 30 percent in 2005. We need to keep the \$1,000 tax credit and not let it revert to the old \$700 credit. There are over 350,000 taxpayers in Kentucky who need this tax relief and will benefit from this legislation. We can't ask millions of Americans to pay an extra \$300 per child next year. Will you ask the families of this country, who have worked so hard to raise our entire economy up, to pay more in taxes simply because they have children? I know I won't, and I hope my colleagues won't either.

The accelerated marriage penalty relief will also lapse after this year unless the Senate acts. I propose keeping the current tax deduction in place, which we increased to twice that of an individual taxpayer in 2003. Without this extension, married couples will see a cut in their standardized deduction—actually penalizing couples for being married. Over 465,000 Kentuckians benefit from this legislation. We need to keep this important tax relief intact.

And finally we need to address an unintended consequence of the Alternative Minimum Tax. When the Senate passed the AMT, it was designed to ensure wealthier Americans paid at least some percentage of their income in taxes. Now that same AMT is hurting working families and middle-income America. In 2003, the Senate passed limited AMT relief that is now set to expire. This legislation will keep the current exemption levels of \$40,250 for single and \$58,000 for married taxpayers in place for 2005. If we fail to act, an additional \$7,000 to \$13,000 of middle-income taxpayers' income will be subject to this tax. We all know that the AMT is a serious issue and one that we must address—the limited relief contained in this bill is not a final solution to this large problem, but it will keep the problem from getting even worse.

There are other important tax cuts that should be extended and there are other problems with the tax code that I would like to correct. But the four provisions addressed in this bill have to be addressed today not just to provide tax relief, but to prevent an immediate tax increase. We owe it to the working families and low-income Americans who rely on these tax cuts to act quickly and extend these four provisions—the 10 percent tax bracket, child tax credit, marriage penalty relief and AMT relief. Working American families and lower to middle-income America were hit hard with the economic downturn—that is why we passed these tax cuts in the first place. And now, just as these industrious Americans have started to find new jobs and spend a little more money to grow the econ-

omy, we cannot hold them back with a tax increase.

And I can't stress this point enough. Many Americans—especially low and middle income families—will have their tax rates increased and face cuts in their deductions and credits unless we act. My bill is about extending the important tax breaks that we all agreed to in 2001 and accelerated in 2003. We made a commitment to the American family in the midst of an economic downturn—offering them tax relief to help stimulate the economy. And now that these tax cuts are starting to work, we can't afford to take them back. We must stay the course and support our Nation's families as we move the American economy forward toward renewed prosperity.

I know how tight government finances are likely to be this year. And as my colleagues know, I have always taken a hard look at spending proposals. But we built about \$80 billion into the Senate-passed FY 2005 Budget proposal for these tax provisions. And there are similar provisions in the House-approved budget. I am confident that we can secure the amount we will need for this proposal over the next few years.

We find ourselves in a unique position—we must be proactive to protect the American family from an unjust tax increase. We need to take a stand for low and middle income America. This Bunning-Miller tax relief legislation will protect working Americans from what would be a devastating tax increase in 2005. I urge my colleagues to get behind this bipartisan legislation and support the Working Family Tax Relief Act of 2004.

By Mr. JEFFORDS (for himself and Mr. SARBANES):

S. 2377. A bill to amend the Safe Drinking Water Act to ensure that the District of Columbia and States are provided with a safe, lead-free supply of drinking water; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, I rise today to introduce the Lead-Free Drinking Water Act of 2004 with my colleague Senator SARBANES. We are joined by our colleagues, Congresswoman NORTON, Congressman WAXMAN, and others, who will be introducing the House companion bill today.

I was horrified, as I imagine we all were, when it was first reported that lead levels in DC public water system was significantly higher than Federal guidelines, and had been so for at least two years. I asked myself the same thing thousands of DC residents were asking themselves—why weren't we told about this sooner. How much water did I drink? How much water did my children drink? What are the effects of lead in our blood stream? What are the long-term effects? What are we going to do about it?

This is a pretty sad situation no matter where you live, but it is especially upsetting when you live in the Capital

of the free world. Clearly, mistakes were made and changes are needed—because if it can happen in Washington, DC or Boston, it can happen anywhere.

The Senate Environment and Public Works Committee, of which I am the ranking member, held a hearing on this issue last month, and we heard some pretty compelling testimony from DC residents, health experts, risk management professionals and government officials.

But we are going to do more than just hold hearings; today we are introducing the Lead-Free Drinking Water Act of 2004.

Our bill will overhaul the Safe Drinking Water Act to strengthen the Federal rules governing lead testing and regulations in our public water systems to ensure that our most vulnerable citizens—infants, children, pregnant women, and new moms—are not harmed by lead in the drinking water.

Specifically, the bill requires the EPA to re-evaluate the current regulatory structure to figure out if it really provides the level of public health protection required.

The bill calls on the EPA to establish a maximum contaminant level for lead at the tap, and if that is not practical given the presence of lead inside home plumbing systems, the bill requires EPA to re-evaluate the current action level for lead to ensure that vulnerable populations such as infants, children, pregnant women, and nursing mothers receive adequate protection.

I look forward to working with EPA on this evaluation to determine which approach is most feasible and which provides the greatest level of public health protection.

EPA has three choices—keep current standard, an “action level” at 15 parts per billion; lower the current action level below 15 parts per billion; or establish a “maximum contaminant load.”

For example, it is clear that a maximum contaminant level, which is measured at the water treatment plant, would do little to protect people from lead-contaminated drinking water at their faucets. Our bill requires that standards be measured at the tap.

It is also clear that a low lead action level measured at the tap could provide more protection than a high MCL measured anywhere in the system if there were extremely strong and effective public notification procedures in place.

Public notice is the key to success of any lead regulation—parents say to me, “If only I had known, I could have protected my family.” It is our job to be sure the public notice system we have in place gets people the information they need when they need it.

The bill will require that information such as the number of homes tested, the lead levels found, the areas of the community in which they were located, and the disproportionate adverse health effects of lead on infants, be made public immediately upon detection of lead.

In addition, the bill requires that, as part of routine testing conducted, any residents whose homes test high for lead receive notification within 14 days, and appropriate medical referrals.

Finally, we don’t want the day of an exceedance to be the first time people have heard about lead in drinking water. The bill establishes a basic public education program to ensure that people have a basic understanding that lead may be present in drinking water and what the corrective actions might be even before their water system detects a problem.

Right now, EPA can’t say if we have a national problem or not. We need one-time nationwide testing for lead in drinking water at all water systems to determine if DC is an isolated case or if there are other “sleeping giants” out there.

The bill requires increased water testing and lead remediation in schools and day-care centers nationwide. This provision exists in law today, but it was affected by previous litigation. This bill corrects the problem by requiring the Administrator to execute this program if States choose not to. It is wholly unacceptable to do anything less than provide a learning environment for our next generation that does not degrade their intellectual capacity. Our bill provides \$150 million over five years for this program. And we strengthen existing requirements to ensure that ALL lead service lines will be replaced by a public water system at a rate of 10 percent per year until they are gone. It provides more Federal funding to upgrade water distribution systems to replace lead service lines.

This is common sense—let’s get rid of the lead in our distribution systems and get rid of the lead in our water.

Our bill makes the water systems responsible for replacing lead service lines, including the privately-owned sections, once a system exceeds lead standards. Homeowners have the final say in whether their line is replaced. We provide \$1 billion over five years for lead service line replacement.

The EPA estimates that our Nation needs 265 billion dollars to maintain and improve its drinking water infrastructure over the next twenty years. If we don’t address this, we will be facing more and more health and environmental issues as our Nation’s water infrastructure degrades.

Lead service lines are only one part of the picture. Leaded solder was banned in 1987. However, “lead-free” plumbing fixtures are currently allowed to have eight percent lead. Our bill bans leaded plumbing fixtures and components.

It is time to get the lead out of our pipes, out of our water, out of our families and out of our lives. Safe drinking water is not a privilege; it is a right—whether you live in Washington, DC, or Washington State or Washington County, VT.

We hope to move this bill this year. My Committee is scheduled to consider

water infrastructure legislation later this month, and I think the “Lead-Free Drinking Water Act of 2004” would be an important addition to that bill.

I just want to say it has been an honor to work with Senator SARBANES, Congresswoman NORTON, and Congressman WAXMAN on this vitally important issue.

By Mr. REID (for himself and Mr. ENSIGN):

S. 2378. A bill to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President. I arise today to introduce legislation to establish a public heliport facility in Clark County, NV.

The purpose of my bill is simple: It would convey about a third of a square mile of public land managed by the Bureau of Land Management to Clark County for dedicated use as a heliport. The land is located just south of the Henderson city limits and east of Interstate 15.

The establishment of this heliport will help eliminate the ongoing conflict between air tour operators whose overflights of the Grand Canyon represent a classic component of the Las Vegas visitor experience and residents in the west-central and southwestern parts of the Las Vegas Valley whose every day lives are adversely affected by helicopter noise.

For many months now, local officials have sought to establish a heliport on County or private land within the Las Vegas Valley. Their chosen site is currently a go-kart track near Interstate 15 near Henderson. If this site is developed as a heliport facility, helicopter tour operators will soon be flying over the Sloan Canyon National Conservation Area. In fact, if Congress does not enact my bill, air tours will soon be flying over Sloan Canyon itself—one of the richest petroglyph sites in the Mohave Desert. That outcome would be entirely legal, entirely predictable and entirely regrettable.

In 2002, I worked closely with Senator ENSIGN, Congresswoman BERKLEY, Congressman GIBBONS and local advocates to ensure protection of the Sloan Canyon area and its unique cultural resources. Through our combined efforts we created the Sloan Canyon National Conservation Area and the McCullough Mountains Wilderness. I am proud of these efforts and today I offer this legislation as a further effort to protect the precious resources that we worked to safeguard in 2002.

The bill I am introducing in the Senate today would not prohibit helicopter overflights of the Sloan Canyon National Conservation Area but it would ensure that such flights steer clear of the most sensitive and special cultural resources and minimize the impact on the majestic bighorn sheep and other wildlife that live in the McCullough Mountains.

My legislation stipulates that any helicopter flight originating from and/or landing at this heliport would be required by law to fly no further than 5 miles north of the southernmost boundary of the Sloan Canyon National Conservation Area and at least 500 to 1000 feet above ground level while in the NCA. Further, it requires that every such light contribute 3 dollars per passenger to a special fund dedicated to the protection of the cultural, wilderness, and wildlife resources in Nevada.

These provisions justify conveying the land to Clark County at no cost because they provide a stable, long-term source of funding in excess of the market value of the land and because the conveyance and use are in the public interest.

I look forward to working with the Chairman and Ranking member of the Senate Energy and Natural Resources Committee and my other Senate colleagues to ensure swift passage of this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF PROPERTY TO CLARK COUNTY, NEVADA.

(a) FINDINGS.—Congress finds that—

(1) the Las Vegas Valley in the State of Nevada is the fastest growing community in the United States;

(2) helicopter tour operations are conflicting with the needs of long-established residential communities in the Valley; and

(3) the designation of a public heliport in the Valley that would reduce conflicts between helicopter tour operators and residential communities is in the public interest.

(b) PURPOSE.—The purpose of this Act is to provide a suitable location for the establishment of a commercial service heliport facility to serve the Las Vegas Valley in the State of Nevada while minimizing and mitigating the impact of air tours on the Sloan Canyon National Conservation Area and North McCullough Mountains Wilderness.

(c) DEFINITIONS.—In this Act:

(1) CONSERVATION AREA.—The term “Conservation Area” means the Sloan Canyon National Conservation Area established by section 604(a) of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2010).

(2) COUNTY.—The term “County” means Clark County, Nevada.

(3) HELICOPTER TOUR.—

(A) IN GENERAL.—The term “helicopter tour” means a commercial helicopter tour operated for profit.

(B) EXCLUSION.—The term “helicopter tour” does not include a helicopter tour that is carried out to assist a Federal, State, or local agency.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(5) WILDERNESS.—The term “Wilderness” means the North McCullough Mountains Wilderness established by section 202(a)(13) of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2000).

(d) CONVEYANCE.—As soon as practicable after the date of enactment of this Act, the Secretary shall convey to the County, subject to valid existing rights, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (e).

(e) DESCRIPTION OF LAND.—The parcel of land to be conveyed under subsection (d) is the parcel of approximately 229 acres of land depicted as tract A on the map entitled “Clark County Public Heliport Facility” and dated May 3, 2004.

(f) USE OF LAND.—

(1) IN GENERAL.—The parcel of land conveyed under subsection (d)—

(A) shall be used by the County for the operation of a heliport facility under the conditions stated in paragraphs (2) and (3); and

(B) shall not be disposed of by the County.

(2) IMPOSITION OF FEES.—

(A) IN GENERAL.—Any operator of a helicopter tour originating from or concluding at the parcel of land described in subsection (e) shall pay to the Clark County Department of Aviation a \$3 conservation fee for each passenger on the helicopter tour if any portion of the helicopter tour occurs over the Conservation Area.

(B) DISPOSITION OF FUNDS.—Any amounts collected under subparagraph (A) shall be deposited in a special account in the Treasury of the United States, which shall be available to the Secretary, without further appropriation, for the management of cultural, wildlife, and wilderness resources on public land in the State of Nevada.

(3) FLIGHT PATH.—Except for safety reasons, any helicopter tour originating or concluding at the parcel of land described in subsection (e) that flies over the Conservation Area shall not fly—

(A) over any area in the Conservation Area except the area that is between 3 and 5 miles north of the latitude of the southernmost boundary of the Conservation Area;

(B) lower than 1,000 feet over the eastern segments of the boundary of the Conservation Area; or

(C) lower than 500 feet over the western segments of the boundary of the Conservation Area.

(4) REVERSION.—If the County ceases to use any of the land described in subsection (d) for the purpose described in paragraph (1)(A) and under the conditions stated in paragraphs (2) and (3)—

(A) title to the parcel shall revert to the United States, at the option of the United States; and

(B) the County shall be responsible for any reclamation necessary to revert the parcel to the United States.

(g) ADMINISTRATIVE COSTS.—The Secretary shall require, as a condition of the conveyance under subsection (d), that the County pay the administrative costs of the conveyance, including survey costs and any other costs associated with the transfer of title.

By Mr. SUNUNU (for himself, Mr. STEVENS, Mr. WARNER, and Mr. GREGG):

S. 2380. A bill to authorize the President to issue posthumously to the late William “Billy” Mitchell a commission as major general, United States Army; to the Committee on Armed Services.

Mr. SUNUNU. Mr. President, today I am introducing a bill to honor one of the Nation’s great military visionaries, the late William “Billy” Mitchell. My legislation would correct an injustice that has existed for almost eight decades by calling on the President to posthumously award Billy Mitchell a

commission as major general in the United States Army.

I would like to first recognize the support this measure has received from the Senator from Alaska, Mr. STEVENS, the Chairman of the Appropriations Committee and the Subcommittee on Defense Appropriations, the Senator from Virginia, Mr. WARNER, the Chairman of the Armed Services Committee, and the Senator from New Hampshire, Mr. GREGG, who is a member of the Defense Appropriations Subcommittee. And I would also like to commend my colleague in the House, Mr. BASS, who, with the support of House Armed Services Chairman DUNCAN HUNTER, steered identical legislation to unanimous passage in that chamber in the fall of last year. I am pleased to join my colleagues as we recognize the accomplishments of this important figure in our country’s military history.

Billy Mitchell joined the Army at age 18 in 1898. As he quickly rose in rank, he began to realize the incredible potential for air power in establishing military superiority. After World War I, Billy Mitchell became a brigadier general and deputy commander of the Air Service, and in this position he began pressing senior military officials and the White House for increased funding for the development of a formidable air force. In fact, he conducted a test for senior Army and Navy officials in the Chesapeake Bay in 1921 that bolstered his contention that air power represented the future of combat, while embarrassing many naysayers.

Although Billy Mitchell was long on vision and foresight, he was short on tact. After the 1921 test, his relationship with his superiors deteriorated as his very public battle for Air Service funding had taken an increasingly bitter tone, and after an accident that took the lives of Navy sailors, Mitchell accused senior military leaders of “almost treasonable administration of the national defense.” He was court-martialed for insubordination, found guilty, sentenced to 5 years loss of pay, and demoted to the rank of colonel. Yet to the surprise of no one, Billy Mitchell continued to be a strong and effective voice in support of air power after resigning his commission in 1926 until his untimely death 10 years later.

Billy Mitchell sacrificed his career to help change the way our country defends itself and projects military force across the globe to protect and preserve freedom. We have seen over time—most recently during the war on terror in Afghanistan and Iraq—how important air power is in achieving our military objectives. Mitchell’s prognostications many years ago about the future of air power has been proven correct many times over, and it is now time for our nation to recognize the enormous contribution Billy Mitchell has made to the citizens and soldiers of the United States of America. I urge my colleagues to support this bill to finally give the late Billy Mitchell the rank of major general, United States Army.

By Mr. KENNEDY (for himself, Mr. FEINGOLD, and Mrs. CLINTON):

S. 2381. A bill to provide for earned adjustment to reward work, reunify families, establish a temporary worker program that protects United States and foreign workers and strengthen national security under the immigration laws of the United States; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, it is a privilege to introduce the Safe Orderly Legal Visas and Enforcement (SOLVE) Act of 2004.

Much of the Nation's economy today depends on the hard work and the many contributions of immigrants. Many industries depend heavily on immigrant labor. These workers enrich our Nation and improve the quality of our lives. Yet millions of today's immigrant workers are undocumented. These workers and their families live in constant fear of deportation, and are easy targets of abuse and exploitation by unscrupulous employers and by criminals. Many risk great danger, and even death, to cross our borders.

For important reasons—to strengthen national security, to guarantee sound economic and labor practices, and to ensure fundamental fairness—it is essential to reform our immigration system. We need immigration policies that provide a safe, orderly system where legality is the prevailing norm. We need immigration policies that reflect current economic realities, that respect the core values of family unity and fundamental fairness and that uphold our proud tradition as a Nation of immigrants.

These are complex issues, deserving careful consideration and debate. But they are also issues that demand immediate attention. Our bill creates a genuine earned legalization program for undocumented workers and a revised temporary worker program with protections for both U.S. and foreign workers. It also creates a realistic path to citizenship for all deserving immigrants, and takes clear steps to reunite immigrant families.

The legislation will benefit both workers and businesses. It improves wages and working conditions, and provides an effective way for foreign-born workers to become permanent residents if they wish to do so. It benefits immigrant families by reducing the unacceptable backlogs and obstacles that have separated families for too many years.

Family unity has always been a fundamental cornerstone of America's immigration policy. Despite this fact, over three million individuals are awaiting immigrant visas in order to reunite with their families. This bill will allow immigrant families to be reunited more quickly and humanely. It also removes other obstacles in our current immigration laws that are separating families, such as the stringent affidavit-of-support requirements and the bars to admissibility.

No immigration proposal is complete without an earned adjustment program. Hard-working immigrants living in the United States contribute to the economic growth and prosperity of our Nation. Immigrant workers are, and will continue to be, essential to the success of many American businesses. Our legislation will allow these long-term, tax-paying immigrants to apply for earned adjustment of status, providing employers with a more stable workforce and improving the wages and working conditions of all workers.

A revised temporary worker program is a necessary component of any immigration reform, but it cannot stand alone. It must be enacted in conjunction with earned legalization and family unity priorities, and it must avoid the troubling legacy of exploitation that has marred past guest worker programs.

This legislation strikes a fair balance. It will ensure that individuals participating in the program receive the same labor protections as those given to U.S. workers, including the right to organize, the right to change jobs between employers and economic sectors, and the protection of wages, hours, and working conditions. Anything else would subject migrants to abuse, and undermine the jobs, wages and working conditions of U.S. workers. The bill also provides participants with an opportunity to become permanent residents, and eventually citizens, if they wish to do so. Without such an opportunity, we will be creating second class status for temporary workers.

Since the terrorist attacks of September 11th, we can no longer tolerate policies that fail to protect and control our borders. For the last decade, Congress has invested millions of dollars to vastly increase the number of immigration border patrol agents, improve surveillance technology, and install other controls to strengthen border enforcement, especially at our southwest border. Yet, almost everyone will agree that these policies have failed to stop illegal immigration. The proof is in the numbers—several hundred thousand people continue to enter the U.S. illegally each year.

Our border enforcement strategy has, in effect, diverted migration flows to the most inhospitable desert and mountain terrains, causing dramatic increases in deaths due to exposure to the elements. According to statistics from the U.S. Border Patrol, since 1998 nearly 2,000 people have died making the treacherous journey across our southern border. Desperate migrants are being drawn into criminal smuggling syndicates, increasing the danger of violence to border patrol agents, border communities, and the migrant themselves. As Stephen Flynn, an expert on terrorism, noted at a recent Congressional hearing, these “draconian measures” have produced chaos at our borders, which “makes it ideal for exploitation by criminals and terrorists.”

Our borders must be safe and secure. Although no terrorists have been apprehended crossing the southern border, the conditions there are ripe for abuse. Our present enforcement policies are not effective. Our bill will replace the chaotic, deadly illegal crossings along our southwest border with orderly and safe legal avenues for immigrant workers and immigrant families. Substantially legalizing the flow of people at our borders will strengthen our security and substantially reduce criminal activities, enabling immigration enforcement agents to focus their resources on terrorists and criminals attempting to enter the country. The bill will strengthen national security by encouraging undocumented persons to come forward to become legal.

We have a unique opportunity to reform the current immigration system, and apply sensible policies that reaffirm our commitment to family unity, fundamental fairness, economic opportunity, and humane treatment.

The bill we are introducing today will achieve the full reforms we need. A good first step would be to enact two bills that are already pending—the AgJOBS bill to reform the immigration laws for migrant workers, and the DREAM Act, to enable undocumented high school students to qualify for legal status so they can attend college. The Administration's wholehearted endorsements of these two bills would guarantee their immediate passage. Let's at least get these bills done now. We cannot afford any more delays.

I look forward to working with my colleagues to reform our immigration laws. It's time to make these long-overdue reforms happen.

By Mr. INOUE:

S. 2382. A bill to establish grant programs for the development of telecommunications capacities in Indian country; to the Committee on Indian Affairs.

Mr. INOUE. Mr. President, I rise to introduce a bill that is long overdue and much needed in Indian country.

On May 22nd of last year, the Committee on Indian Affairs held a hearing on the status of telecommunications across Native America. Testimony received at that hearing and reports of Federal agencies that were made part of the hearing record indicate that there is most definitely a vast difference in access to the most basic telecommunications services.

For instance, telephone service to Indian homes is from 30 to 60 percent less than the national average, and only 10 percent of Indian homes have Internet service.

The bill that I introduce today is modeled after the community development block grant program and provides authorization for the establishment of two block grant programs in the Department of Commerce. The first block grant would enable tribal governments to develop the necessary infrastructure

to support expanded telecommunications capabilities, to develop comprehensive plans for enhancing telecommunications services in Indian communities, and to provide support for telemedicine.

The second block grant program would support the provision of training and technical assistance in the very complex field of telecommunications.

The objectives of this bill can be rather simply stated. For too long, when it comes to access to even the most basic telecommunications services—telephone and Internet access—we have relegated Indian country to third world status. We must bridge this gap—it is that fundamental.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Native American Connectivity Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1)(A) disparities exist in the areas of education, health care, workforce training, commerce, and economic activity of Indians due to the rural nature of most Indian reservations; and

(B) access to basic and advanced telecommunications infrastructure is critical in eliminating those disparities;

(2) currently, only 67.9 percent of Indian homes have telephone service, compared with the national average of 95.1 percent;

(3) the telephone service penetration rate on some reservations is as low as 39 percent;

(4) even on reservations and trust land, non-Indian homes are more likely to have telephone service than Indian homes;

(5) only 10 percent of Indian households on tribal land have Internet access;

(6) only 17 percent of Indian tribes have developed comprehensive technology plans;

(7) training and technical assistance have been identified as the most significant needs for the development and effective use of telecommunications and information technology in Indian country;

(8) funding for telecommunications and information technology projects in Indian country remains inadequate to address the needs of Indian communities;

(9) many Indian tribes are located on or adjacent to Indian land in which unemployment rates exceed 50 percent;

(10) the lack of telecommunications infrastructure and low telephone and Internet penetration rates adversely affects the ability of Indian tribes to pursue economic development opportunities; and

(11) health care, disease prevention education, and cultural preservation are greatly enhanced with access to and use of telecommunications technology and electronic information.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to promote affordable and universal access among Indian tribal governments, tribal entities, and Indian households to telecommunications and information technology in Indian country;

(2) to encourage and promote tribal economic development, self-sufficiency, and strong tribal governments;

(3) to enhance the health of Indian tribal members through the availability and use of telemedicine and telehealth; and

(4) to assist in the retention and preservation of native languages and cultural traditions.

SEC. 4. DEFINITIONS.

In this Act:

(1) BLOCK GRANT.—The term “block grant” means a grant provided under section 5.

(2) ELIGIBLE ACTIVITY.—The term “eligible activity” means an activity carried out—

(A) to acquire or lease real property (including licensed spectrum, water rights, dark fiber, exchanges, and other related interests) to provide telecommunications services, facilities, and improvements;

(B) to acquire, construct, reconstruct, or install telecommunications facilities, sites, or improvements (including design features), or utilities;

(C) to retain any real property acquired under this Act for tribal communications purposes;

(D) to pay the non-Federal share required by a Federal grant program undertaken as part of activities funded under this Act;

(E) to carry out activities necessary—

(i) to develop a comprehensive telecommunications development plan; and

(ii) to develop a policy, planning, and management capacity so that an eligible entity may more rationally and effectively—

(I) determine the needs of the entity;

(II) set long term and short term goals;

(III) devise programs and activities to meet the goals of the entity, including, if appropriate, telehealth;

(IV) evaluate the progress of the programs and activities in meeting the goals; and

(V) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(F) to pay reasonable administrative costs and carrying charges relating to the planning and execution of telecommunications development activities, including the provision of information and resources about the planning and execution of the activities to residents of areas in which telecommunications development activities are to be concentrated;

(G) to increase the capacity of an eligible entity to carry out telecommunications activities;

(H) to provide assistance to institutions of higher education that have a demonstrated capacity to carry out eligible activities;

(I) to enable an eligible entity to facilitate telecommunications development by—

(i) providing technical assistance, advice, and business support services (including services for developing business plans, securing funding, and conducting marketing); and

(ii) providing general support (including peer support programs and mentoring programs) to Indian tribes in developing telecommunications projects;

(J) to evaluate eligible activities to ascertain and promote effective telecommunications and information technology deployment practices and usages among Indian tribes; or

(K) to provide research, analysis, data collection, data organization, and dissemination of information relevant to telecommunications and information technology in Indian country for the purpose of promoting effective telecommunications and information technology deployment practices and usages among tribes.

(3) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) an Indian tribe;

(B) an Indian organization;

(C) a tribal college or university;

(D) an intertribal organization; or

(E) a private or public institution of higher education acting jointly with an Indian tribe.

(4) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) SECRETARY.—The term “Secretary” means the Secretary of Commerce.

(6) TECHNICAL ASSISTANCE.—The term “technical assistance” means the facilitation of skills and knowledge in planning, developing, assessing, and administering eligible activities.

(7) TRAINING AND TECHNICAL ASSISTANCE GRANT.—The term “training and technical assistance grant” means a grant provided under section 6.

(8) TRIBAL COLLEGE OR UNIVERSITY.—The term “tribal college or university” has the meaning given the term “tribally controlled college or university” in section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801), except that the term also includes an institution listed in the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note).

(9) TELEHEALTH.—The term “telehealth” means the use of electronic information and telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health, and health administration.

SEC. 5. BLOCK GRANT PROGRAM.

(a) ESTABLISHMENT.—There is established within the National Telecommunications and Information Administration a Native American telecommunications block grant program to provide grants on a competitive basis to eligible entities to carry out eligible activities under subsection (c).

(b) BLOCK GRANTS.—The Secretary may provide a block grant to an eligible entity that submits a block grant application to the Secretary for approval.

(c) ELIGIBLE ACTIVITIES.—A grant under this section may only be used for an eligible activity.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations establishing specific criteria for the competition conducted to select eligible entities to receive grants under this section for each fiscal year.

SEC. 6. TRAINING AND TECHNICAL ASSISTANCE GRANTS.

(a) NOTIFICATION AND CRITERIA.—The Secretary—

(1) shall provide notice of the availability of training and technical assistance grants; and

(2) publish criteria for selecting recipients.

(b) GRANTS.—The Secretary may provide training and technical assistance grants to eligible entities with a demonstrated capacity to carry out eligible activities.

(c) USE OF FUNDS.—A training and technical assistance grant shall be used—

(1) to develop a training program for telecommunications employees; or

(2) to provide assistance to students who—

(A) participate in telecommunications or information technology work study programs; and

(B) are enrolled in a full-time graduate or undergraduate program in telecommunications-related education, development, planning, or management.

(d) SETASIDE.—

(1) IN GENERAL.—For each fiscal year, the Secretary shall set aside \$2,000,000 of the amount made available under section 12 for training and technical assistance grants, to remain available until expended.

(2) TREATMENT.—A training and technical assistance grant to an entity shall be in addition to any block grant provided to the entity.

(e) PROVISION OF TECHNICAL ASSISTANCE BY THE SECRETARY.—The Secretary may provide technical assistance, directly or through contracts, to—

- (1) tribal governments; and
- (2) persons or entities that assist tribal governments.

SEC. 7. COMPLIANCE.

(a) AUDIT BY THE COMPTROLLER GENERAL.—

(1) IN GENERAL.—The Comptroller General of the United States may audit any financial transaction involving grant funds that is carried out by a block grant recipient or training and technical assistance grant recipient.

(2) SCOPE OF AUTHORITY.—In conducting an audit under paragraph (1), the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the grant recipient that relate to the financial transaction and are necessary to facilitate the audit.

(3) REGULATIONS.—The Comptroller General shall promulgate regulations to carry out this subsection.

(b) ENVIRONMENTAL PROTECTION.—

(1) IN GENERAL.—After consultation with Indian tribes, the Secretary may promulgate regulations to carry out this subsection that—

(A) ensure that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other laws that further the purposes of that Act (as specified by the regulations), are most effectively implemented in connection with the expenditure of funds under this Act; and

(B) assure the public of undiminished protection of the environment.

(2) SUBSTITUTE MEASURES.—Subject to paragraph (3), the Secretary may provide for the release of funds under this Act for eligible activities to grant recipients that assume all of the responsibilities for environmental review, decisionmaking, and related action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other laws that further the purposes of that Act (as specified by the regulations promulgated under paragraph (1)), that would apply to the Secretary if the Secretary carried out the eligible activities as Federal projects.

(3) RELEASE.—

(A) IN GENERAL.—The Secretary shall approve the release of funds under paragraph (2) only if, at least 15 days prior to approval, the grant recipient submits to the Secretary a request for release accompanied by a certification that meets the requirements of paragraph (4).

(B) APPROVAL.—The approval by the Secretary of a certification shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the laws specified by the regulations promulgated under paragraph (1), to the extent that those responsibilities relate to the release of funds for projects described in the certification.

(4) CERTIFICATION.—A certification shall—

(A) be in a form acceptable to the Secretary;

(B) be executed by the tribal government;

(C) specify that the grant recipient has fully assumed the responsibilities described in paragraph (2); and

(D) specify that the tribal officer—

(i) assumes the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each law specified by the regulations promulgated under paragraph (1), to the extent that the provisions of that Act or law apply; and

(ii) is authorized to consent, and consents, on behalf of the grant recipient and on behalf

of the tribal officer to accept the jurisdiction of the Federal courts for enforcement of the responsibilities of the tribal officer as a responsible Federal official.

SEC. 8. REMEDIES FOR NONCOMPLIANCE.

(a) FAILURE TO COMPLY.—If the Secretary finds, on the record after opportunity for an agency hearing, that a block grant recipient or training and technical assistance grant recipient has failed to comply substantially with any provision of this Act, the Secretary, until satisfied that there is no longer a failure to comply, shall—

(1) terminate payments to the grant recipient;

(2) reduce payments to the grant recipient by an amount equal to the amount of payments that were not expended in accordance with this Act;

(3) limit the availability of payments under this Act to programs, projects, or activities not affected by the failure to comply; or

(4) refer the matter to the Attorney General with a recommendation that the Attorney General bring an appropriate civil action.

(b) ACTION BY THE ATTORNEY GENERAL.—After a referral by the Secretary under subsection (a)(4), the Attorney General may bring a civil action in United States district court for appropriate relief (including mandatory relief, injunctive relief, and recovery of the amount of the assistance provided under this Act that was not expended in accordance with this Act).

SEC. 9. REPORTING REQUIREMENTS.

(a) ANNUAL REPORT TO CONGRESS.—Not later than 180 days after the end of each fiscal year in which assistance under this Act is provided, the Secretary shall submit to Congress a report that includes—

(1) a description of the progress made in accomplishing the objectives of this Act;

(2) a summary of the use of funds under this Act during the preceding fiscal year; and

(3) an evaluation of the status of telephone, Internet, and personal computer penetration rates, by type of technology, among Indian households throughout Indian country on a tribe-by-tribe basis.

(b) REPORTS TO SECRETARY.—The Secretary may require grant recipients under this Act to submit reports and other information necessary for the Secretary to prepare the report under subsection (a).

SEC. 10. CONSULTATION.

In carrying out this Act, the Secretary shall consult with other Federal agencies administering Federal grant programs.

SEC. 11. HISTORIC PRESERVATION REQUIREMENTS.

A telecommunications project funded under this Act shall comply with the National Historic Preservation Act (16 U.S.C. 470 et seq.).

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act—

(1) \$20,000,000 for fiscal year 2005; and

(2) such sums as are necessary for each subsequent fiscal year.

(b) AVAILABILITY.—Funds made available under subsection (a) shall remain available until expended.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 349—RECOGNIZING AND HONORING MAY 17, 2004, AS THE 50TH ANNIVERSARY OF THE SUPREME COURT DECISION IN BROWN V. BOARD OF EDUCATION OF TOPEKA

Mr. KENNEDY (for himself, Mr. LEAHY, Mr. DURBIN, Mr. FEINGOLD, Mr. CARPER, and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 349

Whereas May 17, 2004, marks the 50th anniversary of the Supreme Court decision in the case of *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954);

Whereas in the 1896 case of *Plessy v. Ferguson*, 163 U.S. 537 (1896), the Supreme Court upheld the doctrine of "separate but equal", which allowed the continued segregation of common carriers, and, by extension, of public schools, in the United States based on race;

Whereas racial segregation and the doctrine of "separate but equal" resulted in separate schools, housing, and public accommodations that were inferior and unequal for African-Americans and many other minorities, severely limited the educational opportunities of generations of racial minorities, negatively impacted the lives of the people of the United States, and inflicted severe harm on American society;

Whereas in 1945, Mexican-American students in California successfully challenged the constitutionality of their segregation on the basis of national origin in *Westminster School District of Orange County v. Mendez* (161 F.2d 774 (9th Cir. 1947));

Whereas in 1951, Oliver Brown, on behalf of his daughter Linda Brown, an African-American third grader, filed suit against the Board of Education of Topeka after Linda was denied admission to an all-white public school in Topeka, Kansas;

Whereas in 1952, the Supreme Court combined Oliver Brown's case (*Brown v. Board of Education of Topeka*, 98 F. Supp. 797 (D. Kan. 1951)) with similar cases from Delaware (*Gebhart v. Belton*, 91 A.2d 137 (Del. 1952)), South Carolina (*Briggs v. Elliott*, 98 F. Supp. 529 (E.D.S.C. 1951)), and Virginia (*Davis v. County School Board of Prince Edward County*, 103 F. Supp. 337 (E.D. Va. 1952)) challenging racial segregation in education and determined that the constitutionality of segregation in public schools in the District of Columbia would be considered separately in *Bolling v. Sharpe*, 347 U.S. 497 (1954);

Whereas the students in these cases argued that the inequality caused by the segregation of public schools was a violation of their right to equal protection under the law;

Whereas on May 17, 1954, in *Brown v. Board of Education of Topeka*, the Supreme Court overturned the decision of *Plessy v. Ferguson*, concluding that "in the field of public education, the doctrine of 'separate but equal' has no place" and, on that same date, in *Bolling v. Sharpe*, held that the doctrine of "separate but equal" also violated the fifth amendment to the Constitution; and

Whereas the decision in *Brown v. Board of Education of Topeka* is of national importance and profoundly affected all people of the United States by outlawing racial segregation in education and providing a foundation on which to build greater equality: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors May 17, 2004, as the 50th anniversary of the Supreme Court

decision in *Brown v. Board of Education of Topeka*;

(2) encourages all people of the United States to recognize the importance of the Supreme Court decision in *Brown v. Board of Education of Topeka*; and

(3) acknowledges the need for the Nation to recommit to the goals and purposes of this landmark decision to finally realize the dream of equal educational opportunity for all children of the United States.

SENATE RESOLUTION 350—TO AUTHORIZE THE PRODUCTION OF RECORDS BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 350

Whereas, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has been conducting an investigation into the credit counseling industry;

Whereas, the Subcommittee has received a number of requests from law enforcement and regulatory officials and agencies for access to records of the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, acting jointly, are authorized to provide to law enforcement and regulatory entities and officials records of the Subcommittee's investigation into the credit counseling industry.

SENATE RESOLUTION 351—CONGRATULATING CHARTER SCHOOLS AND THEIR STUDENTS, PARENTS, TEACHERS, AND ADMINISTRATORS ACROSS THE UNITED STATES FOR THEIR ONGOING CONTRIBUTIONS TO EDUCATION, AND FOR OTHER PURPOSES

Mr. GREGG (for himself, Mr. LIEBERMAN, Mr. FRIST, Mr. CARPER, Mrs. DOLE, Mr. SUNUNU, Mr. ALEXANDER, Mr. DOMENICI, Mr. CRAIG, Mr. COLEMAN, Ms. LANDRIEU, Mr. DURBIN, Mr. DEWINE, and Mr. BROWNBACK) submitted the following resolution; which was considered and agreed to:

S. RES. 351

Whereas charter schools deliver high-quality education and challenge our students to reach their potential;

Whereas charter schools provide thousands of families with diverse and innovative educational options for their children;

Whereas charter schools are public schools authorized by a designated public entity that are responding to the needs of our commu-

nities, families, and students and promoting the principles of quality, choice, and innovation;

Whereas in exchange for the flexibility and autonomy given to charter schools, they are held accountable by their sponsors for improving student achievement and for their financial and other operations;

Whereas 41 States, the District of Columbia, and the Commonwealth of Puerto Rico have passed laws authorizing charter schools;

Whereas nearly 3,000 charter schools are now operating in 37 States, the District of Columbia, and the Commonwealth of Puerto Rico and serving 750,000 students;

Whereas over the last 10 years, Congress has provided more than \$1,000,000,000 in support to the charter school movement through facilities financing assistance and grants for planning, startup, implementation, and dissemination;

Whereas charter schools improve their students' achievement and stimulate improvement in traditional public schools;

Whereas charter schools must meet the student achievement accountability requirements under the Elementary and Secondary Education Act of 1965 in the same manner as traditional public schools, and often set higher and additional individual goals to ensure that they are of high quality and truly accountable to the public;

Whereas charter schools give parents new freedom to choose their public school, routinely measure parental satisfaction levels, and must prove their ongoing success to parents, policymakers, and their communities;

Whereas nearly 40 percent of charter schools report having a waiting list, and the total number of students on all such waiting lists is enough to fill over 1,000 average-sized charter schools;

Whereas charter schools nationwide serve a higher percentage of low-income and minority students than the traditional public system;

Whereas charter schools have enjoyed broad bipartisan support from the Administration, Congress, State Governors and legislatures, educators, and parents across the United States; and

Whereas the fifth annual National Charter Schools Week, to be held May 3 to 7, 2004, is an event sponsored by charter schools and grassroots charter school organizations across the United States to recognize the significant impact, achievements, and innovations of charter schools: Now, therefore, be it—

Resolved, That—

(1) the Senate acknowledges and commends charter schools and their students, parents, teachers, and administrators across the United States for their ongoing contributions to education and improving and strengthening our public school system;

(2) the Senate supports the fifth annual National Charter Schools Week; and

(3) it is the sense of the Senate that the President should issue a proclamation calling on the people of the United States to conduct appropriate programs, ceremonies, and activities to demonstrate support for charter schools during this weeklong celebration in communities throughout the United States.

SENATE CONCURRENT RESOLUTION 103—HONORING THE CONTRIBUTION OF THE WOMEN, SYMBOLIZED BY "ROSIE THE RIVETER", WHO SERVED ON THE HOMEFRONT DURING WORLD WAR II, AND FOR OTHER PURPOSES

Ms. MURKOWSKI (for herself, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Ms. COLLINS, Mrs. DOLE, Mrs. FEINSTEIN, Mrs. HUTCHISON, Ms. LANDRIEU, Mrs. LINCOLN, Ms. MIKULSKI, Mrs. MURRAY, Ms. SNOWE, and Ms. STABENOW) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 103

Whereas during World War II, 6,000,000 women stepped forward to work in homefront industries to produce the ships, planes, tanks, trucks, guns, and ammunition that were crucial to achieving an Allied victory;

Whereas women worked in homefront industries as welders, riveters, engineers, designers, and managers, and held other positions that had traditionally been held by men;

Whereas these women demonstrated great skill and dedication in the difficult and often dangerous jobs they held, which enabled them to produce urgently needed military equipment at recordbreaking speeds;

Whereas the need for labor in homefront industries during World War II opened new employment opportunities for women from all walks of life and dramatically increased gender and racial integration in the workplace;

Whereas the service of women on the homefront during World War II marked an unprecedented entry of women into jobs that had traditionally been held by men and created a lasting legacy of the ability of women to succeed in those jobs;

Whereas these women devoted their hearts and souls to their work to assure safety and success for their husbands, sons, and other loved ones on the battle front;

Whereas the needs of working mothers resulted in the creation of child care programs, leading to the lasting legacy of public acceptance of early child development and care outside the home;

Whereas the needs of women on the homefront led to employer-sponsored prepaid and preventative health care never before seen in the United States; and

Whereas in 2000, Congress recognized the significance to the Nation of the industrial achievements on the homefront during World War II and the legacy of the women who worked in those industries through the establishment of the Rosie the Riveter World War II Home Front National Historical Park in Richmond, California, as a unit of the National Park System: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) honors the extraordinary contributions of the women whose dedicated service on the homefront during World War II was instrumental in achieving an Allied victory;

(2) recognizes the lasting legacy of equal employment opportunity and support for child care and health care that developed during the "Rosie the Riveter" era; and

(3) calls on the people of the United States to take the opportunity to study, reflect on, and celebrate the stories and accomplishments of women who served the Nation as "Rosies" during World War II.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3110. Mr. DORGAN (for himself, Ms. MIKULSKI, Mr. HARKIN, Mr. FEINGOLD, Mr. KENNEDY, and Mr. EDWARDS) proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

SA 3111. Mr. GREGG proposed an amendment to the bill S. 1637, supra.

SA 3112. Mr. GRAHAM, of Florida (for himself and Mr. DAYTON) proposed an amendment to the bill S. 1637, supra.

SA 3113. Mr. ALLEN (for himself, Mrs. DOLE, Mr. EDWARDS, and Mr. GRAHAM, of South Carolina) submitted an amendment intended to be proposed by him to the bill S. 1637, supra.

SA 3114. Ms. CANTWELL (for herself and Mr. VOINOVICH) proposed an amendment to the bill S. 1637, supra.

SA 3115. Mr. LAUTENBERG (for himself, Mrs. FEINSTEIN, Mr. FEINGOLD, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3116. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3110. Mr. DORGAN (for himself, Ms. MIKULSKI, Mr. HARKIN, Mr. FEINGOLD, Mr. KENNEDY, and Mr. EDWARDS) proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

At the end of subtitle E of title IV, add the following:

SEC. —. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking “and” at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting “, and”, and by adding at the end the following new paragraph:

“(6) imported property income for the taxable year (determined under subsection (j)) and reduced as provided in subsection (b)(5).”

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

“(j) IMPORTED PROPERTY INCOME.—

“(1) IN GENERAL.—For purposes of subsection (a)(6), the term ‘imported property income’ means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

“(A) manufacturing, producing, growing, or extracting imported property,

“(B) the sale, exchange, or other disposition of imported property, or

“(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the mean-

ing of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

“(2) IMPORTED PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term ‘imported property’ means property which is imported into the United States by the controlled foreign corporation or a related person.

“(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term ‘imported property’ includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

“(i) such property would be imported into the United States, or

“(ii) such property would be used as a component in other property which would be imported into the United States.

“(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term ‘imported property’ does not include any property which is imported into the United States and which—

“(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

“(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

“(3) DEFINITIONS AND SPECIAL RULES.—

“(A) IMPORT.—For purposes of this subsection, the term ‘import’ means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use intangible property (as defined in section 936(h)(3)(B)) in the United States.

“(B) UNITED STATES.—For purposes of this subsection, the term ‘United States’ includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(C) UNRELATED PERSON.—For purposes of this subsection, the term ‘unrelated person’ means any person who is not a related person with respect to the controlled foreign corporation.

“(D) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term ‘foreign base company sales income’ shall not include any imported property income.”

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking “and” at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

“(I) imported property income, and”.

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

“(H) IMPORTED PROPERTY INCOME.—The term ‘imported property income’ means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(j)).”

(3) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3) is amended by striking “or (E)” and inserting “(E), or (I)”.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended—

(A) by redesignating subclauses (III), (IV), (V), and (VI) as subclauses (IV), (V), (VI), and (VII), and

(B) by inserting after subclause (II) the following new subclause:

“(III) imported property income.”.

(2) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking “and the foreign base company oil related income” and inserting “the foreign base company oil related income, and the imported property income”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after such date of enactment.

(f) SENSE OF THE SENATE.—It is the sense of the Senate that any increase in revenues in the Treasury resulting from the amendments made by this section should be applied to reduce the phase-in of the deduction relating to income attributable to domestic production activities under section 199 of the Internal Revenue Code of 1986 (as added by section 102 of this Act).

SEC. —. AMENDMENTS TO THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.

(a) DEFINITION.—Section 2(a) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101(a)) is amended—

(1) in paragraph (3)(B), by striking “for—” and all that follows through “500 employees” in clause (ii), and inserting “for at least 50 employees”;

(2) in paragraph (7), by striking “and” at the end;

(3) in paragraph (8), by striking the period and inserting “; and”; and

(4) by adding at the end the following:

“(9) the term ‘offshoring of jobs’ means any action taken by an employer the effect of which is to create, shift, or transfer employment positions or facilities outside the United States and which results in an employment loss during any 30 day period for 15 or more employees.”.

(b) NOTICE.—Section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “60-day” and inserting “90-day”; and

(B) in paragraph (1), by striking “and” at the end;

(C) in paragraph (2), by striking the period and inserting “; and”; and

(D) by inserting after paragraph (2), the following:

“(3) to the Secretary of Labor.”;

(2) in subsection (b), by striking “60-day” each place that such appears and inserting “90-day”; and

(3) by adding at the end the following:

“(e) NOTICE FOR OFFSHORING OF JOBS.—In the case of a notice under subsection (a) regarding the offshoring of jobs, the notice shall include, in addition to the information otherwise required by the Secretary with respect to other notices under such subsection, information concerning—

“(1) the number of jobs affected;

“(2) the location that the jobs are being shifted or transferred to; and

“(3) the reasons that such shifting or transferring of jobs is occurring.”.

(c) TECHNICAL AMENDMENTS.—The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) is amended—

(1) by striking “plant closing or mass layoff” each place that such appears and inserting “plant closing, mass layoff, or offshoring of jobs”;

(2) by striking “closing or layoff” each place that such appears and inserting “closing, layoff, or offshoring”;

(3) in section 3—

(A) in the section heading by striking “PLANT CLOSINGS AND MASS LAYOFFS” and inserting “PLANT CLOSINGS, MASS LAYOFFS, AND OFFSHORING OF JOBS”;

(B) in subsection (b)(2)(A), by striking “closing or mass layoff” and inserting “closing, layoff, or offshoring”; and

(C) in subsection (d), by striking “section 2(a)(2) or (3)” and inserting “paragraph (2), (3), or (9) of section 2(a)”;

(4) in section 5(a)(1), in the matter following subparagraph (B), by striking “60 days” and inserting “90 days”.

(d) POSTING OF EMPLOYEE RIGHTS.—The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) is amended by adding at the end the following:

“SEC. 11. POSTING OF NOTICE OF RIGHTS.

“(a) DEVELOPMENT.—Not later than 60 days after the date of enactment of this section, the Secretary of Labor shall develop a notice of employee rights under this Act for posting by employers.

“(b) POSTING.—Each employer shall post in a conspicuous place in places of employment the notice of the rights of employees as developed by the Secretary under subsection (a).”

(e) ANNUAL REPORT.—The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.), as amended by subsection (d), is further amended by adding at the end the following:

“SEC. 12. CONTENTS OF ANNUAL REPORTS BY THE SECRETARY OF LABOR.

“(a) IN GENERAL.—The Secretary of Labor shall collect and compile statistics based on the information submitted to the Secretary under subsections (a)(3) and (e) of section 3.

“(b) REPORT.—Not later than 120 days after the date on which each regular session of Congress commences, the Secretary of Labor shall prepare and submit to the President and the appropriate committees of Congress a report on the offshoring of jobs (as defined in section 2(a)(9)). Each such report shall include information concerning—

“(1) the number of jobs affected by offshoring;

“(2) the locations to which jobs are being shifted or transferred;

“(3) the reasons why such shifts and transfers are occurring; and

“(4) any other relevant data compiled under subsection (a).”

SA 3111. Mr. GREGG proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . . . PROTECTION OF OVERTIME PAY.

Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

“(k)(1) The Secretary shall not promulgate any rule under subsection (a)(1) that exempts

from the overtime pay provisions of section 7 any employee who earns less than \$23,660 per year.

“(2) The Secretary shall not promulgate any rule under subsection (a)(1) concerning the right to overtime pay that is not as protective, or more protective, of the overtime pay rights of employees in the occupations or job classifications described in paragraph (3) as the protections provided for such employees under the regulations in effect under such subsection on March 31, 2003.

“(3) The occupations or job classifications described in this paragraph are as follows:

- “(A) Any worker paid on an hourly basis.
- “(B) Blue collar workers.
- “(C) Any worker provided overtime under a collective bargaining agreement.
- “(D) Team leaders.
- “(E) Computer programmers.
- “(F) Registered nurses.
- “(G) Licensed practical nurses.
- “(H) Nurse midwives.
- “(I) Nursery school teachers.
- “(J) Oil and gas pipeline workers.
- “(K) Oil and gas field workers.
- “(L) Oil and gas platform workers.
- “(M) Refinery workers.
- “(N) Steel workers.
- “(O) Shipyard and ship scrapping workers.
- “(P) Teachers.
- “(Q) Technicians.
- “(R) Journalists.
- “(S) Chefs.
- “(T) Cooks.
- “(U) Police officers.
- “(V) Firefighters.
- “(W) Fire sergeants.
- “(X) Police sergeants.
- “(Y) Emergency medical technicians.
- “(Z) Paramedics.
- “(AA) Waste disposal workers.
- “(BB) Day care workers.
- “(CC) Maintenance employees.
- “(DD) Production line employees.
- “(EE) Construction employees.
- “(FF) Carpenters.
- “(GG) Mechanics.
- “(HH) Plumbers.
- “(II) Iron workers.
- “(JJ) Craftsmen.
- “(KK) Operating engineers.
- “(LL) Laborers.
- “(MM) Painters.
- “(NN) Cement masons.
- “(OO) Stone and brick masons.
- “(PP) Sheet metal workers.
- “(QQ) Utility workers.
- “(RR) Longshoremen.
- “(SS) Stationary engineers.
- “(TT) Welders.
- “(UU) Boilermakers.
- “(VV) Funeral directors.
- “(WW) Athletic trainers.
- “(XX) Outside sales employees.
- “(YY) Inside sales employees.
- “(ZZ) Grocery store managers.
- “(AAA) Financial services industry workers.
- “(BBB) Route drivers.
- “(CCC) Assistant retail managers.

“(4) Any portion of a rule promulgated under subsection (a)(1) after March 31, 2003, that modifies the overtime pay provisions of section 7 in a manner that is inconsistent with paragraphs (2) and (3) shall have no force or effect as it relates to the occupation or job classification involved.”

SA 3112. Mr. GRAHAM of Florida (for himself and Mr. DAYTON) proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United

States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

Strike section 102 and title II and insert the following:

SEC. 102. MANUFACTURING JOBS CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following:

“SEC. 45S. MANUFACTURING JOBS CREDIT.

“(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the manufacturing jobs credit determined under this section is an amount equal to 1.66 percent of the W-2 wages paid by the taxpayer during the taxable year attributable to the taxpayer’s domestic production gross receipts for such taxable year.

“(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term ‘eligible taxpayer’ means any taxpayer which has domestic production gross receipts for the taxable year and the preceding taxable year.

“(c) W-2 WAGES.—For purposes of this section—

“(1) W-2 WAGES.—The term ‘W-2 wages’ means the sum of the aggregate amounts the taxpayer is required to include on statements under paragraphs (3) and (8) of section 6051(a) with respect to employment of employees of the taxpayer during the taxpayer’s taxable year.

“(2) LIMITATION.—The aggregate amount of W-2 wages taken into account with respect to any employee for any taxable year shall not exceed \$35,000.

“(3) SPECIAL RULES.—

“(A) PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity, the determination of W-2 wages shall be made at the entity level.

“(B) ACQUISITIONS AND DISPOSITIONS.—The Secretary shall provide for the determination of W-2 wages in cases where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

“(C) COORDINATION WITH TARGETED JOBS CREDIT, ETC.—Such term shall not include wages attributable to service taken into account in determining the credit under section 45A, 51, or 1396.

“(d) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section, the term ‘domestic production gross receipts’ means the gross receipts of the taxpayer which are derived from—

“(1) any sale, exchange, or other disposition of, or

“(2) any lease, rental, or license of,

that portion of qualifying production property which was manufactured, produced, grown, or extracted by the taxpayer within the United States.

“(e) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

“(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term ‘qualifying production property’ means—

“(A) any tangible personal property,

“(B) any computer software, and

“(C) any property described in section 168(f) (3) or (4), including any underlying copyright or trademark.

“(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term ‘qualifying production property’ shall not include—

“(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

“(B) oil or gas,

“(C) electricity,
 “(D) water supplied by pipeline to the consumer,
 “(E) utility services, or
 “(F) any film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

“(f) UNITED STATES.—For purposes of subsection (e), the term ‘United States’ includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

“(g) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.”.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting “, plus”, and by adding at the end the following:

“(31) the manufacturing jobs credit determined under section 45S.”.

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO MANUFACTURING JOBS CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended by inserting “45S(a),” after “45A(a).”.

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits), as amended by this Act, is amended by striking “and” at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting “, and”, and by adding at the end the following new paragraph:

“(14) the manufacturing jobs credit determined under section 45S(a).”.

(d) DENIAL OF CARRYBACKS TO PREENACTMENT YEARS.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end thereof the following new paragraph:

“(16) NO CARRYBACK OF SECTION 45S CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the manufacturing jobs credit determined under section 45S may be carried to a taxable year ending on or before the date of the enactment of section 45S.”.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following:

“Sec. 45S. Manufacturing jobs credit.”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

TITLE II—INTERNATIONAL TAX PROVISIONS

SEC. 201. DETERMINATION OF FOREIGN PERSONAL HOLDING COMPANY INCOME WITH RESPECT TO TRANSACTIONS IN COMMODITIES.

(a) IN GENERAL.—Clauses (i) and (ii) of section 954(c)(1)(C) (relating to commodity transactions) are amended to read as follows:

“(i) arise out of commodity hedging transactions (as defined in paragraph (4)(A)),
 “(ii) are active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign corporation’s commodities are property described in paragraph (1), (2), or (8) of section 1221(a), or”.

(b) DEFINITION AND SPECIAL RULES.—Subsection (c) of section 954 is amended by adding after paragraph (3) the following new paragraph:

“(4) DEFINITION AND SPECIAL RULES RELATING TO COMMODITY TRANSACTIONS.—

“(A) COMMODITY HEDGING TRANSACTIONS.—For purposes of paragraph (1)(C)(i), the term ‘commodity hedging transaction’ means any transaction with respect to a commodity if such transaction—

“(i) is a hedging transaction as defined in section 1221(b)(2), determined—

“(I) without regard to subparagraph (A)(ii) thereof,

“(II) by applying subparagraph (A)(i) thereof by substituting ‘ordinary property or property described in section 1231(b)’ for ‘ordinary property’, and

“(III) by substituting ‘controlled foreign corporation’ for ‘taxpayer’ each place it appears, and

“(ii) is clearly identified as such in accordance with section 1221(a)(7).

“(B) TREATMENT OF DEALER ACTIVITIES UNDER PARAGRAPH (1)(C).—Commodities with respect to which gains and losses are not taken into account under paragraph (2)(C) in computing a controlled foreign corporation’s foreign personal holding company income shall not be taken into account in applying the substantially all test under paragraph (1)(C)(ii) to such corporation.
 “(C) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (1)(C) in the case of transactions involving related parties.”.

(c) MODIFICATION OF EXCEPTION FOR DEALERS.—Clause (i) of section 954(c)(2)(C) is amended by inserting “and transactions involving physical settlement” after “(including hedging transactions”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after December 31, 2004.

SA 3113. Mr. ALLEN (for himself, Mrs. DOLE, Mr. EDWARDS, and Mr. GRAHAM of South Carolina) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

At the end add the following:

TITLE IX—HOMESTEAD PRESERVATION ACT

SEC. 901. SHORT TITLE.

This title may be cited as the “Homestead Preservation Act”.

SEC. 902. MORTGAGE PAYMENT ASSISTANCE.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Housing and Urban Development (referred to in this section as the “Secretary”) shall establish a program under which the Secretary shall award low-interest loans to eligible individuals to enable such individuals to continue to make mortgage payments with respect to the primary residences of such individuals.

(b) ELIGIBILITY.—To be eligible to receive a loan under the program established under subsection (a), an individual shall be—

(1) an individual that is a worker adversely affected by international economic activity, as determined by the Secretary;

(2) a borrower under a loan which requires the individual to make monthly mortgage payments with respect to the primary place of residence of the individual; and

(3) enrolled in a training or assistance program.

(c) LOAN REQUIREMENTS.—

(1) IN GENERAL.—A loan provided to an eligible individual under this section shall—

(A) be for a period of not to exceed 12 months;

(B) be for an amount that does not exceed the sum of—

(i) the amount of the monthly mortgage payment owed by the individual; and

(ii) the number of months for which the loan is provided;

(C) have an applicable rate of interest that equals 4 percent;

(D) require repayment as provided for in subsection (d); and

(E) be subject to such other terms and conditions as the Secretary determines appropriate.

(2) ACCOUNT.—A loan awarded to an individual under this section shall be deposited into an account from which a monthly mortgage payment will be made in accordance with the terms and conditions of such loan.

(d) REPAYMENT.—

(1) IN GENERAL.—An individual to which a loan has been awarded under this section shall be required to begin making repayments on the loan on the earlier of—

(A) the date on which the individual has been employed on a full-time basis for 6 consecutive months; or

(B) the date that is 1 year after the date on which the loan has been approved under this section.

(2) REPAYMENT PERIOD AND AMOUNT.—

(A) REPAYMENT PERIOD.—A loan awarded under this section shall be repaid on a monthly basis over the 5-year period beginning on the date determined under paragraph (1).

(B) AMOUNT.—The amount of the monthly payment described in subparagraph (A) shall be determined by dividing the total amount provided under the loan (plus interest) by 60.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an individual from—

(i) paying off a loan awarded under this section in less than 5 years; or

(ii) from paying a monthly amount under such loan in excess of the monthly amount determined under subparagraph (B) with respect to the loan.

(e) REGULATIONS.—Not later than 6 weeks after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that permit an individual to certify that the individual is an eligible individual under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$10,000,000 for each of fiscal years 2005 through 2009.

SA 3114. Ms. CANTWELL (for herself and Mr. VOINOVICH) proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

At the end, add the following:

TITLE —UNEMPLOYMENT COMPENSATION

SEC. —01. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 30), as amended by Public Law 108-1 (117 Stat. 3) and the Unemployment Compensation Amendments of 2003 (Public Law 108-26; 117 Stat. 751), is amended—

(1) in subsection (a)(2), by striking "December 31, 2003" and inserting "November 30, 2004";

(2) in subsection (b)(1), by striking "December 31, 2003" and inserting "November 30, 2004";

(3) in subsection (b)(2)—

(A) in the heading, by striking "DECEMBER 31, 2003" and inserting "NOVEMBER 30, 2004"; and

(B) by striking "December 31, 2003" and inserting "November 30, 2004"; and

(4) in subsection (b)(3), by striking "March 31, 2004" and inserting "February 28, 2005".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 21).

SEC. 02. ADDITIONAL REVISION TO CURRENT TEUC-X TRIGGER.

(a) IN GENERAL.—Section 203(c)(2)(B) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 30) is amended to read as follows:

"(B) such a period would then be in effect for such State under such Act if—

"(i) section 203(d) of such Act were applied as if it had been amended by striking '5' each place it appears and inserting '4'; and

"(ii) with respect to weeks of unemployment beginning after December 27, 2003—

"(I) paragraph (1)(A) of such section 203(d) did not apply; and

"(II) clause (ii) of section 203(f)(1)(A) of such Act did not apply."

(b) APPLICATION.—Section 203(c)(2)(B)(ii) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 30), as added by subsection (a), shall apply with respect to payments for weeks of unemployment beginning on or after the date of enactment of this Act.

SEC. 03. TEMPORARY STATE AUTHORITY TO WAIVE APPLICATION OF LOOKBACKS UNDER THE FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970.

For purposes of conforming with the provisions of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note), a State may, during the period beginning on the date of enactment of this Act and ending on June 30, 2004, waive the application of either subsection (d)(1)(A) of section 203 of such Act or subsection (f)(1)(A)(ii) of such section, or both.

SA 3115. Mr. LAUTENBERG (for himself, Mrs. FEINSTEIN, Mr. FEINGOLD, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IX—NON-REVENUE PROVISIONS

SEC. 901. CLARIFICATION OF CERTAIN SANCTIONS.

(a) IN GENERAL.—

(1) CLARIFICATION OF CERTAIN ACTIONS UNDER IIEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) with respect to a foreign country, or persons dealing with or associated with that foreign government, as a result of a determination by the Secretary of State that the government has repeatedly

provided support for acts of international terrorism, such action shall apply to a United States person or other person as defined in paragraph (2).

(2) DEFINITIONS.—In this section:

(A) PERSON.—The term "person" means an individual, partnership, corporation, or other form of association, including any government or agency thereof.

(B) UNITED STATES PERSON.—The term "United States person" means—

(i) any resident or national (other than an individual resident outside the United States and employed by other than a United States person); and

(ii) any domestic concern (including any permanent domestic establishment of any foreign concern) or any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern, which is controlled in fact by such domestic concern.

(C) CONTROLLED.—The term "is controlled" means—

(i) in the case of a corporation, holds at least 50 percent (by vote or value) of the capital structure of the corporation; and

(ii) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(b) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act on or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

SEC. 902. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) NOTIFICATION REQUIREMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

"SEC. 42. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

"The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation."

(b) CLERICAL AMENDMENT.—The table of sections in section 1(b) of such Act is amended by adding at the end the following new item:

"Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control."

SA 3116. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rul-

ings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . . . MODIFICATION OF EXEMPTION FROM SELF-EMPLOYMENT TAX FOR CERTAIN TERMINATION PAYMENTS RECEIVED BY FORMER INSURANCE SALESMEN.

(a) INTERNAL REVENUE CODE.—Paragraph (4) of section 1402(k) of the Internal Revenue Code of 1986 (relating to codification of treatment of certain termination payments received by former insurance salesmen) is amended to read as follows:

"(4) the amount of such payment depends primarily on policies sold by or credited to the account of such individual or the extent to which such policies remain in force for some period after such termination, or both."

(b) SOCIAL SECURITY ACT.—Paragraph (4) of section 211(j) of the Social Security Act is amended to read as follows:

"(4) the amount of such payment depends primarily on policies sold by or credited to the account of such individual or the extent to which such policies remain in force for some period after such termination, or both."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments after the date of the enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the committee on Armed Services be authorized to meet during the session of the Senate on May 4, 2004, at 10 a.m., in closed session to receive a classified briefing regarding allegations of mistreatment of Iraqi Prisoners.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 4, 2004, at 9:30 a.m., on Reauthorization of the Satellite Home Viewers Improvement Act of 1999 (SHVIA).

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 4, 2004, at 2:30 p.m., to hold a closed mark-up.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Airland of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, May 4, 2004, at 2:30 p.m., in closed session to mark up the

Airland programs and provisions contained in the Department of Defense Authorization Act for Fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMPETITION, FOREIGN
COMMERCE, AND INFRASTRUCTURE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Competition, Foreign Commerce, and Infrastructure be authorized to meet on Tuesday, May 4, 2004, at 2:30 p.m. on Lessons Learned From Security at Past Olympic Games.

COMMITTEE ON SEAPOWER

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, May 4, 2004, at 3:30 p.m., in closed session to mark up the Seapower programs and provisions contained in the Department of Defense Authorization Act for Fiscal Year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THREATS AND CAPABILITIES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, May 4, 2004, at 5 p.m., in closed session to mark up the Emerging Threats and Capabilities programs and provisions contained in the Department of Defense Authorization Act for Fiscal Year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that Sara Hagigh of Senator LIEBERMAN's office be granted the privilege of the floor during consideration of the JOBS bill.

The PRESIDING OFFICER. Without objection, the request of the Senator from Montana is granted.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, after consultation with the members of the Committee on Health, Education, Labor, and Pensions, and the Committee on Aging, pursuant to Public Law 100-175, as amended by Public Laws 102-375, 103-171, and 106-501, appoints the following individuals as members of the Policy Committee to the White House Conference on Aging: The Senator from Iowa, Mr. GRASSLEY and the Senator from Idaho, Mr. CRAIG.

AUTHORIZING PRODUCTION OF
RECORDS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 350.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 350) to authorize the production of records by the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has received requests from various law enforcement and regulatory officials and agencies for assistance in connection with pending investigations into the credit counseling industry, which has been the subject of recent investigation by the subcommittee.

The resolution would authorize the chairman and ranking member of the Permanent Subcommittee on Investigations, acting jointly, to provide investigative records obtained by the subcommittee in the course of its investigation in response to these requests.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 350) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 350

Whereas, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has been conducting an investigation into the credit counseling industry;

Whereas, the Subcommittee has received a number of requests from law enforcement and regulatory officials and agencies for access to records of the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, acting jointly, are authorized to provide to law enforcement and regulatory entities and officials records of the Subcommittee's investigation into the credit counseling industry.

CONGRATULATING CHARTER
SCHOOLS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Sen-

ate proceed to the immediate consideration of S. Res. 351, which was submitted earlier today by Senator GREGG.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 351) congratulating charter schools and their students, parents, teachers, and administrators across the United States for their ongoing contributions to education, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GREGG. Mr. President, today my colleagues, Senators LIEBERMAN, FRIST, CARPER, DOLE, SUNUNU, ALEXANDER, DOMENICI, CRAIG, COLEMAN, LANDRIEU, DURBIN, DEWINE, and BROWNBACK joined me in submitting S. Res. 351, a resolution to designate the week of May 3 through May 7, 2004 as National Charter Schools Week. This year marks the 12th anniversary of the opening of the Nation's first charter school in Minnesota. We have come a long way since that auspicious moment when one teacher, collaborating with parents, started a public school specifically designed to meet the needs of the students in the community.

Today, we have almost 3,000 charter schools serving nearly 750,000 students in 37 States, the District of Columbia, and Puerto Rico. Charter schools are immensely popular. Forty percent report having waiting lists, and there are enough students on these waiting lists to fill another 1,000 average-sized charter schools. Survey after survey shows parents are overwhelmingly satisfied with their children's charter schools.

Charter schools are popular for a variety of reasons. They are generally free from the burdensome regulations and policies that govern traditional public schools. They are founded and run by principals, teachers, and parents who share a common vision of education, a vision which guides each and every decision made at the schools, from hiring personnel to selecting curricula. Furthermore, charter schools are held accountable for student performance in a very unique way—if they fail to educate their students well and meet the goals of their charters, they are shut down.

Since each charter school represents the unique vision of its founders, these schools vary greatly, but all strive for excellence.

For example, Summit Middle School in Boulder, CO is a charter school serving grades 6 through 8 in mixed-age classes grouped by interest, motivation, ability, developmental level, and mastery of previous material. Summit provides a choice at the middle school level for students interested in a more rigorous and individualized academic program, and its students—admitted without regard to past academic accomplishment or prior testing—have risen to the challenge. In 2003, Summit was one of 214 public and private elementary and secondary schools nationwide, and the only public middle school

in Colorado, to be named a No Child Left Behind-Blue Ribbon School in recognition of its students' outstanding performance on State tests.

Here in the District of Columbia, the Capital City Public Charter School serves 227 students and has more than 400 students on its waiting list after only four years of operation. The award-winning school uses an innovative approach to learning based on two research-based, nationally recognized education models that promote rigorous academic and character standards—and the results speak for themselves. Students at Capital City are making significant, measurable academic progress with solid gains in both reading and math. In 2003, Capital City achieved all six goals outlined for District charter schools on academic progress and excellence on the SAT-9 tests. Two new charter schools modeled after Capital City are expected to open in the District this fall, further increasing options for students and parents.

These are but a few of the success stories in the charter school movement, which includes a wide range of schools serving a variety of different learning needs and styles, often at a lower cost than traditional public schools.

I expect that we will see the popularity of charter schools continue to expand. Two years ago, the President signed into law the No Child Left Behind Act, which gives parents in low-performing schools the option to transfer their children to another public school. No Child Left Behind also provides school districts with the option of converting low-performing schools into charter schools. I believe these provisions will strengthen the charter school movement by creating more opportunities for charter school development. And as parents exercise their right to school choice and "vote with their feet", the demand for charter schools will increase.

I commend the ever-growing number of people involved in the charter school movement, from parents and teachers to community leaders and members of the business community. Together, they have led the charge in education reform and have started a revolution with the potential to transform our system of public education. Districts with a large number of charter schools have reported that they are becoming more customer service-oriented, increasing interaction with parents, and creating new education programs, many of which are similar to those offered by charter schools. These improvements benefit all our students, not just those who choose charter schools.

I encourage my colleagues to visit a charter school this week to witness firsthand the ways in which these innovative schools are making a difference, both in the lives of the students they serve as well as in the community in which they reside.

Mr. LIEBERMAN. Mr. President, I rise today as an original cosponsor of this resolution to support the designation of May 3 through May 7, 2004 as National Charter Schools Week. I urge my colleagues to support this resolution to recognize and honor the success of charters schools across the nation. I strongly believe that charter schools enrich our nation and enhance our public education system by providing diverse and innovative educational options for parents and their children.

Currently, nearly 3,000 charter schools are operating in 37 States and the District of Columbia and are serving about 750,000 students. We must continue to sponsor and encourage the development of charter schools. The fact is that nearly 40 percent of charter schools report having a waiting list. Indeed, with these students, we could fill over 1,000 new charter schools.

One of the many positive aspects of the charter movement is that it has managed to bring together educators, parents, community activities, business leaders, and politicians from across the political spectrum to support a common goal of better educating our children by offering more choice and more accountability within our public schools. In many cases, charter schools are built from the ground up by educational leaders and thinkers, working with teachers, parents and local leaders, to reinvent the public school with fresh ideas and expanded options. To their credit, studies have shown that student achievement gains in public schools are substantial and that charter schools are serving a higher percentage of low-income and minority students than the traditional school system.

Now, more than ever, we must continue to support and encourage the charter movement to give parents and children meaningful public school choices, particularly to children in low-performing schools. I am, therefore, most pleased to join my distinguished colleague from New Hampshire, Mr. GREGG, along with Senators CARPER, DURBIN, DEWINE, COLEMAN, LANDRIEU, DOLE, SUNUNU, DOMENICI, CRAIG, ALEXANDER and FRIST, in recognizing the success of charter schools and the value they add to public education. I also commend the Charter School Leadership Council and express my full support for the activities planned this week to celebrate charter schools, teachers and developers, and the parents and children they serve.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 351) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 351

Whereas charter schools deliver high-quality education and challenge our students to reach their potential;

Whereas charter schools provide thousands of families with diverse and innovative educational options for their children;

Whereas charter schools are public schools authorized by a designated public entity that are responding to the needs of our communities, families, and students and promoting the principles of quality, choice, and innovation;

Whereas in exchange for the flexibility and autonomy given to charter schools, they are held accountable by their sponsors for improving student achievement and for their financial and other operations;

Whereas 41 States, the District of Columbia, and the Commonwealth of Puerto Rico have passed laws authorizing charter schools;

Whereas nearly 3,000 charter schools are now operating in 37 States, the District of Columbia, and the Commonwealth of Puerto Rico and serving 750,000 students;

Whereas over the last 10 years, Congress has provided more than \$1,000,000,000 in support to the charter school movement through facilities financing assistance and grants for planning, startup, implementation, and dissemination;

Whereas charter schools improve their students' achievement and stimulate improvement in traditional public schools;

Whereas charter schools must meet the student achievement accountability requirements under the Elementary and Secondary Education Act of 1965 in the same manner as traditional public schools, and often set higher and additional individual goals to ensure that they are of high quality and truly accountable to the public;

Whereas charter schools give parents new freedom to choose their public school, routinely measure parental satisfaction levels, and must prove their ongoing success to parents, policymakers, and their communities;

Whereas nearly 40 percent of charter schools report having a waiting list, and the total number of students on all such waiting lists is enough to fill over 1,000 average-sized charter schools;

Whereas charter schools nationwide serve a higher percentage of low-income and minority students than the traditional public system;

Whereas charter schools have enjoyed broad bipartisan support from the Administration, Congress, State Governors and legislatures, educators, and parents across the United States; and

Whereas the fifth annual National Charter Schools Week, to be held May 3 to 7, 2004, is an event sponsored by charter schools and grassroots charter school organizations across the United States to recognize the significant impact, achievements, and innovations of charter schools: Now, therefore, be it—

Resolved, That—

(1) the Senate acknowledges and commends charter schools and their students, parents, teachers, and administrators across the United States for their ongoing contributions to education and improving and strengthening our public school system;

(2) the Senate supports the fifth annual National Charter Schools Week; and

(3) it is the sense of the Senate that the President should issue a proclamation calling on the people of the United States to conduct appropriate programs, ceremonies, and activities to demonstrate support for charter schools during this weeklong celebration in communities throughout the United States.

ORDERS FOR WEDNESDAY, MAY 5,
2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, May 5. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and following the time for the two leaders the Senate then begin a period for morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee, and the final 30 minutes under the control of the majority leader or his designee; provided that following morning business, the Senate then resume consideration of Calendar No. 381, S. 1637, the FSC/ETI JOBS bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. I further ask consent that when the Senate resumes consideration of S. 1637, the pending amendments be set aside and Senator BREAUX be recognized in order to offer an amendment, which is at the desk, on repatriation; further, there be 60 minutes equally divided in the usual

form and that following that time the amendment be set aside and the Senate proceed to a vote in relation to the amendment at a time determined by the majority leader, after consultation with the Democratic leader, with no amendments in order prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. So tomorrow morning, following morning business, the Senate will resume consideration of the JOBS bill. We made good progress on the bill today, disposing of five amendments. The chairman and ranking member of the Finance Committee will be here tomorrow morning to continue working through the remaining amendments. Senators should expect rollcall votes on amendments throughout the afternoon. However, I would announce there will be no votes prior to 2 p.m.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, if I could, and I appreciate the Senator yielding, after we finish with the Breaux amend-

ment, there is an agreement that if there is a Republican amendment to be offered we would deal with that. If not, the next amendment we would go to would be to complete the amendment that has already been offered by Senator DORGAN. Following that, if the Republicans want to offer an amendment, that would be fine. If they do not, we would then go to an amendment that has been filed by Senator GRAHAM. We would complete those and perhaps have at least those three votes at or near 2 tomorrow afternoon. That is not a unanimous consent. That is just indicating what we have worked on with the managers of the bill.

ADJOURNMENT UNTIL 9:30 A.M.
TOMORROW

Mr. McCONNELL. Therefore, Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:50 p.m., adjourned until Wednesday, May 5, 2004, at 9:30 a.m.