

Sessions	Stabenow	Thomas
Shelby	Stevens	Warner
Smith	Sununu	Wyden
Specter	Talent	

NAYS—16

Akaka	Feingold	Rockefeller
Byrd	Inouye	Schumer
Conrad	Johnson	Snowe
Daschle	Kohl	Voinovich
Dayton	Leahy	
Dorgan	Reid	

NOT VOTING—4

Baucus	Edwards
Domenici	Kerry

The bill (H.R. 4759) was passed.

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

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

The motion to lay on the table was agreed to.

#### AMERICAN JOBS CREATION ACT OF 2004—Continued

AMENDMENT NO. 3563

The PRESIDING OFFICER. Under the previous order, the question now occurs on the DeWine-Kennedy amendment. There is 4 minutes per side prior to the vote.

The Senator from Ohio.

Mr. DEWINE. Mr. President, I understand we have 4 minutes on each side.

The PRESIDING OFFICER. There is 4 minutes on each side.

The Senator from Ohio.

Mr. DEWINE. I yield to my colleague from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, very briefly, I want to make sure people understand the tobacco buyout portion of the amendment upon which we are about to vote. No. 1, to make sure there are no misunderstandings or misconceptions, this amendment will end a tobacco price support program. That will be over. Second, there were several hearings on this proposal, both in the House and a field hearing in North Carolina chaired by Senator DOLE.

I also want to make it clear how this amendment would pay for the buyout. It would be paid for by a manufacturer's fee, not by the taxpayers.

It was suggested that 85 percent of the recipients of the buyout are not farmers. In fact, every single quotaholder owns at least part of a farm. They may have leased it out, but they own at least part of a farm. So these do go to farmers.

I hope our colleagues will support the buyout. I think it is a reasonable proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I yield to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the heart of this amendment is the FDA provision which will lead to fewer children starting to smoke and fewer adults suffering tobacco-induced dis-

ease. If parents want their children to grow up and grow up smoke-free, if they want to shield them from a \$9 billion campaign designed to entice children into smoking, if they want to help millions of smokers kick the habit before it kills them, they will support the DeWine-McConnell-Kennedy amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am going to urge my colleagues to vote against this amendment for two or three reasons. One, the bill we are voting on has never been marked up out of the Agriculture Committee. It has never been marked up in the HELP Committee. We are going to spend billions of dollars. We are rewriting the farm bill. We have a \$12 billion buyout for tobacco farmers.

I heard my colleague from Kentucky say it ends the tobacco program. It does not end the tobacco program. This amendment was offered late last night, but under the bill of the Senator from Kentucky it did not eliminate the program. The House bill spends \$9.6 billion and it does eliminate the program. It eliminates this quota. This bill eliminates quotas, but it does not eliminate the Secretary from having the authority to be able to restrict acreage on who grows tobacco. So we are going to spend \$12 billion and not even eliminate the program, and not have any limitation on how much it is going to cost?

It is estimated the House bill would have almost 500 people make \$1 million. This bill is much more generous than the House bill. There are going to be a few people who are going to become multimillionaires as a result of this bill, but yet we were not given the chance to offer any amendments. We could not say there should be a limit of \$250,000 per person who is not a farmer. Incidentally, 85 percent of the people who receive money from the buyout are not farmers, are not living on a farm. So this is a buyout for a few people.

The FDA section is the biggest grant of power to the FDA, which not only gives them the power to regulate tobacco, but frankly I believe they can ban tobacco. It is a blank check to do almost anything they want—the most sweeping power they have ever been given. I think the House was wrong to add the \$9.6 billion tobacco buyout in their tax bill, and two wrongs do not make a right. Now we are adding totally unrelated things, not considered by committee. It is going to cost billions of dollars, and we are going to add it to the Senate bill.

It is going to come back from conference in all likelihood with some provision. I think it jeopardizes the entire FSC bill. I do not think it should become law. Certainly, this is not the way it should become law. If it should become law, let us take it up free-standing and give Senators the right to amend and discuss it before spending billions of dollars.

The cost of this buyout is multiples of the so-called quota buyout we did for peanuts. It is going to cost billions of dollars. I urge our colleagues to vote no on the amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. How much time remains?

The PRESIDING OFFICER. There is 2 minutes.

Mr. DEWINE. Mr. President, we regulate every product that is consumed in this country today. We put the contents of that product on the label—every product except tobacco. It makes absolutely no sense. This is a very modest bill, a very modest proposal, that gives the FDA the authority to regulate tobacco. I point out to my colleague, it does not give the FDA the authority to ban tobacco. It does not give the FDA the authority to do that at all. It is a modest compromise, but it will save lives. It makes sense.

One of the biggest health problems we have in this country today is underage smoking. We know if we can get a child at 19 or 20 and he or she does not start smoking by then, they probably will never start smoking. This bill allows us to get at advertising targeted at young people, which is a major problem today.

I yield the remainder of my time to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I am prepared to vote.

Mr. DEWINE. We yield back our time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Pursuant to rule XII, paragraph 3, I ask unanimous consent to be excused from voting on this question.

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

The Senator from Oklahoma.

Mr. NICKLES. How much time do I have remaining?

The PRESIDING OFFICER. There is 1 minute 17 seconds.

Mr. NICKLES. Mr. President, on page 45 of the bill, it says:

The Secretary may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health.

If the Secretary determines something is appropriate for the protection of the public health, they can do whatever they want, I believe, including banning tobacco. That is very broad discretion for the Secretary of Health, to do whatever they want.

Also, the program does not end the tobacco program. At least it didn't in Senator MCCONNELL's bill. We have not had a chance to really review it, but it didn't in his bill. It did in the House bill. I compliment the House. If you are going to spend \$10 billion, you ought to

eliminate the program. We are going to spend \$12 billion and not eliminate the tobacco program.

The PRESIDING OFFICER (Mr. BENNETT). All time has expired.

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

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Florida (Mr. NELSON) are necessarily absent.

I further announce that the Senator from Delaware (Mr. CARPER) votes "present."

The result was announced—yeas 78, nays 15, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—78

Akaka	Daschle	Levin
Alexander	Dayton	Lieberman
Allen	DeWine	Lincoln
Bayh	Dodd	Lugar
Bennett	Dole	McCain
Biden	Dorgan	McConnell
Bingaman	Durbin	Mikulski
Bond	Ensign	Miller
Boxer	Feingold	Murkowski
Breaux	Feinstein	Murray
Brownback	Frist	Nelson (NE)
Bunning	Graham (FL)	Pryor
Byrd	Graham (SC)	Reed
Campbell	Grassley	Reid
Cantwell	Hagel	Rockefeller
Chafee	Harkin	Sarbanes
Chambliss	Hatch	Schumer
Clinton	Hollings	Smith
Cochrane	Hutchison	Snowe
Coleman	Inouye	Specter
Collins	Johnson	Stabenow
Conrad	Kennedy	Stevens
Cornyn	Kohl	Talent
Corzine	Landrieu	Voinovich
Craig	Lautenberg	Warner
Crapo	Leahy	Wyden

NAYS—15

Allard	Jeffords	Santorum
Burns	Kyl	Sessions
Enzi	Lott	Shelby
Fitzgerald	Nickles	Sununu
Gregg	Roberts	Thomas

ANSWERED "PRESENT"—1

Carper

NOT VOTING—6

Baucus	Edwards	Kerry
Domenici	Inhofe	Nelson (FL)

The amendment (No. 3563) was agreed to.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The substitute amendment, as amended, is agreed to.

The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. BAUCUS. Mr. President, it has taken us too long to reach this point. Frankly, we are doing today what should have been done last fall. We are finally moving forward with the Jumpstart Our Business Strength—the JOBS bill.

I commend the Majority Leader and the Democratic Leader for reaching the agreement that allows this bill to move forward. I commend, as well, the Chairman of the Finance Committee, Senator GRASSLEY, who has been so instrumental in bringing us to this point.

There is a reason why we call this bill the JOBS bill. This bill will help create and keep good, high-paying manufacturing jobs right here in America. And this bill will help remove crippling European tariffs that rob American firms of business. Every month that goes by without enactment of the JOBS bill results in more tariffs on our American companies. We need to enact this bill.

So, as we go forward to conference, it is critical that we adhere to the following 5 principles.

First, we should preserve our bipartisan support for this bill. The Senate-passed JOBS Bill had strong bipartisan support. It passed by a vote of 92 to 5 on May 11. To preserve this bipartisan support we need to ensure that any significant change from the Senate-passed bill be limited, germane, and agreed to on a broadly supported bipartisan basis.

Second, any conference agreement should be budget neutral. The government is running record budget deficits. Gone are the surpluses of just a few years ago. We should show fiscal discipline and responsibility. The conference agreement should be budget neutral. And the conference agreement should not employ budget gimmicks.

Third, we should protect our Nation's manufacturing jobs. Since January 2001, America has lost more than 2.7 million manufacturing jobs. In my home state of Montana, we have lost 2,700 jobs in that time, over 12 percent of our manufacturing jobs. Therefore, savings from repeal of the Foreign Sales Corporation/Extraterritorial Income, FSC/ETI, regime should go to domestic manufacturing. The conference agreement should devote the preponderance of its total cost to the centerpiece of this bill: a domestic manufacturing tax benefit.

Fourth, the conference agreement should incorporate the important tax shelter reforms that the Senate has repeatedly passed. It has been nearly 3 years since Enron and other corporate scandals. Yet Congress still has not enacted any meaningful tax legislation to close the corporate abuses of the tax code. The Congress should retain the package of the Senate-passed tax shelter provisions, including the provisions ensuring that business transactions are undertaken for economic, and not tax

avoidance purposes, and requiring CEO signatures.

Finally, an important part of the Senate bill is its coverage of all types of businesses. The conference agreement should provide a domestic manufacturing tax benefit to all domestic manufacturers, regardless of choice of business entity. It should cover not just C corporations, but also S corporations, partnerships, and sole proprietorships.

Mr. President, I will fight to ensure the conference agreement adheres to these principles. I will fight for the Senate's position across the board, including on overtime rules and on energy tax provisions.

Here is the bottom line: The Senate passed the JOBS bill with a wide, bipartisan majority. The conferees have to work together, across political differences, to move this important bill forward. We need to continue our fight for good jobs, here in America.●

Mr. MCCAIN. Mr. President, I have been very outspoken in my opposition to this bill, and was one of only five Senators to vote against its passage in May. I voted against it because it was loaded with wasteful spending and tax breaks for special interests and the super rich. With the Nation facing a half-trillion dollar deficit, now is not the time for Congress to be enacting wasteful tax credits.

The proponents of this bill are fond of pointing out that it is "revenue neutral" and that all of the tax cuts in the bill are paid for with offsets. I firmly believe that, due to our current fiscal crisis, any proposed offsets would better be used to reduce the deficit. It is incomprehensible to me, at this time of record deficits and debt, coupled with our war against terrorism and the need to secure our homeland, that we would consider risking the future of our manufacturing base and our standing in the international community by wasting time and jeopardizing corrective action while carving out sweet deals for special interests.

We missed a golden opportunity with this issue. We could have passed a good, clean bill months ago that would have brought us back into compliance with World Trade Organization, WTO, agreements and stop the burdensome tariffs now imposed on our manufacturers. Unfortunately, the goal of achieving the legislation's underlying worthy purpose has been lost to a host of special interest add-ons.

In a June 19th editorial, The Washington Times, not known for liberal propaganda, stated: The ideal solution would have been a quick, simple repeal of FSC/ETI, which is bad economic policy in any case. Unfortunately, both the House and the Senate versions of the bill became magnets for the special interests. A steady train of lobbyists tacked on \$167 billion in tax breaks over the next 10 years to the Senate bill, while the House bill expanded by \$143 billion in similar additions. The Senate bill, for example, includes breaks for NASCAR racetracks and foreign dog-race gamblers, while the House version lavishes its attention upon tobacco

growers, timber owners and alcohol distillers. The imminent House-Senate conference, predictably, promises to be a de facto food fight between congressman, lobbyists and tax watchdogs. And so while the lobbyists duke it out, EU sanctions will continue to rise and American manufacturers and the U.S. economy will deal with the consequences.

Let me quote from some other newspapers who have editorialized about this terrible bill.

From The New York Times: What started out as Congress's urgent obligation to resolve a trade battle with the European Union has degenerated into an embarrassment as lawmakers and business lobbyists vie in a costly frenzy of corporate handouts.

From The Dallas Morning News: The United States' credibility also is at stake. As a WTO member, the United States has an obligation to follow the trade body's rulings or risk undermining the WTO's authority over global trade. . . . The simple solution would be to end the tax break. But election-year politics threaten common sense.

From The St. Petersburg Times: Tax cut fever has gripped lawmakers, and they're beginning to act delusional. . . . The bill is so irresponsible it deserves to fail.

From The Los Angeles Times: Further driving up the federal budget deficit with tax breaks will probably worsen U.S. sales abroad. The more money the Treasury has to borrow to cover the deficit, the more pressure there is on the Federal Reserve to raise interest rates to attract those funds, eventually driving inflation.

An article in the April 19th edition of The Washington Post exposed the Senate-passed bill for what it is and how it became such a monstrosity. The article stated the following:

Congress's task seemed simple enough: Repeal an illegal \$5 billion-a-year export subsidy and replace it with some modest tax breaks to ease the pain on U.S. exporters. But out of that imperative has emerged one of the most complex, special-interest-riddled corporate tax bills in years. . . . The 930-page epic is packed with \$170 billion in tax cuts aimed at cruise-ship operators, foreign dog-race gamblers, NASCAR track owners, bow and arrow makers and Oldsmobile dealers, to name a few.

The article also quoted a tax lobbyist involved in drafting the bill as saying that it "has risen to a new level of sleaze. I said a few months ago, any lobbyist worth his salt has something in this bill."

This is not the way we should be doing the people's business. Incredible deals for the special interests, big tax breaks for oil and gas companies, and other big corporations have already stalled WTO compliance for too long. The manufacturing base of our country will suffer, the economy will suffer, and jobs will suffer. Is that what we want? Is that what the American people want? The answer is no. They deserve better than this, Mr. President. We work for them—not for the big money special interests and their fat cat lobbyists.

As I have said before, we need to start making some tough decisions around here Mr. President. With little legislative time remaining this election year, the Senate would serve the American public far better if it stayed

focused on accomplishing the intended purpose of legislating. Unfortunately, this FSC/ETI bill, which is a much needed bill, is being dragged down with the unnecessary weight of billions of dollars in wasteful subsidies, tax breaks, and special exemptions for the special interests.

We have got to restore some sanity to the way we do things here in Washington. The facts are clear, we simply cannot continue to spend and spend and spend while continuing to cut taxes and fund the war against terrorism. It's high time we face up to the challenge and do what's right. Passing this bill, and the others like it of which this body has become so fond, is tantamount to placing a millstone of debt around the necks of our children, grandchildren, and who knows how many future generations of Americans. It has to stop, and I hope this body can find the courage to stop it.

Ms. MIKULSKI. Mr. President, I have a few words to say about the importance of protecting overtime pay for hard-working Americans. This bill that we're about to vote on is nicknamed the JOBS bill. But the most important thing we did for American workers in this bill was to pass Senator HARKIN's amendment to protect overtime pay. I was proud to stand with Senator HARKIN and stand up for American workers. I urge the conferees on this bill to make sure the Harkin amendment stays in the final version.

Millions of Americans depend on overtime pay to pay their bills and make ends meet. Yet the Bush administration wants to strip overtime protections for hard-working men and women. I thought in this country, the best social program was a job. Yet 6 million workers would lose overtime protection under the Bush proposal. Who are these workers? They are registered nurses, police sergeants, nursery school teachers, and others. These men and women work hard to serve our communities. They protect us and they help us when we are in need. They deserve extra pay for their extra efforts.

What does the Bush proposal mean for workers? It means workers will have to work long hours for less money because they will no longer be eligible for overtime pay. They might have to find a second job because they won't be able to count on overtime pay to make ends meet. They will spend less time with their families, but they won't get compensated. I think that's outrageous.

Let me give an example. America is facing a crisis in nursing. In Maryland hospitals, 12.6 percent of nursing jobs are vacant. They desperately need over 2,000 nurses. Nationwide, we will need about 2.8 million registered nurses by the year 2020, but only about 2 million will be available. Nurses work an average of 8.5 weeks of overtime each year. Eighty-seven percent of Maryland nurses work overtime just to make up for the shortage. If the Bush proposal becomes law, it will be easier for em-

ployers to deny overtime pay to registered nurses. RNs will have to work the same long hours for no extra pay, or hospitals will have to get by without enough nurses to take care of patients. Lack of overtime pay will discourage young nurses from entering the profession and experienced nurses from staying. I worked hard to pass legislation to help eliminate the nursing shortage. Changing the overtime rules would be a huge step backwards.

The Bush plan would also deny overtime pay for police sergeants. The Bush Labor Department got a lot of criticism when the American public realized that first responders would lose overtime pay. So they revised their proposal; and now they claim that first responders won't lose overtime protections. Yet the National Association of Police Organizations, the International Union of Police Associations, and the International Brotherhood of Police Organizations say that police sergeants and other managers could still lose their overtime pay.

What a thing to say to police officers and their families. These men and women put their lives on the line to keep us safe no matter what time it is or how many hours they've worked already. Every time a police officer leaves their home, they don't know when they'll be home. They don't even know if they'll be home. And now the Bush administration is asking them to donate their overtime. That's no way to show our appreciation. We need to protect the protectors so that they can protect us. That means protecting their overtime pay.

Nurses and police sergeants are just a few examples. The Bush proposal would deny overtime pay for workers in many industries, from nursery school teachers to insurance claims adjusters. It would take money out of the pockets of hard working Americans and their families. I think the Bush administration ought to be ashamed of itself.

Families in my State of Maryland are worried. They're worried about their jobs. They're terrified of losing their healthcare, when costs keep ballooning. They don't know how they can afford to send their kids to college. Tuition at University of Maryland increased by 30 percent over the last 2 years. Our middle class families are stressed and stretched. Many are holding down more than one job or working overtime to make ends meet. They're racing from carpools to work and back again. They want to know what we in the United States Senate are doing to help them. We need to protect their jobs and protect their overtime pay.

Mrs. FEINSTEIN. Mr. President, I rise in favor of the Jumpstart Our Business Strength, JOBS, Act.

I supported this bill when first passed out of the Senate on May 11 of this year and I will support it again today. In fact, the DeWine-Kennedy amendment on FDA oversight of tobacco improved the bill.

Without this legislation, U.S. companies will face increasing tariffs as a result of a World Trade Organization ruling that determined that significant portions of our Federal Tax Code ran counter to international trade laws.

The DeWine-Kennedy amendment that we adopted will strengthen the bill by restricting advertising and promotions that appeal to children; stopping illegal sales of tobacco products to children; requiring changes in tobacco products, such as the reduction or elimination of harmful chemicals, to make them less harmful or less addictive; prohibiting unsubstantiated health claims about so-called "reduced risk" tobacco products that would have the effect of discouraging current tobacco users from quitting or encouraging new users to start; and requiring the disclosure of the contents of tobacco products and tobacco industry research about the health effects of their products.

This amendment is absolutely essential to me should a tobacco buyout be included in the conference report.

But this legislation is still far from perfect and I have growing concerns about what we may see when this bill returns to the Senate following conference. This concern has been heightened by what I see contained in the House bill.

First, the House bill contains the \$9.6 billion tobacco buyout proposal that contains no provision for FDA oversight of tobacco products.

Second, the House bill is not offset by revenue raisers and would cost \$35 billion through 2014, according to the official Joint Committee on Taxation estimate. Alarming, this cost estimate does not provide a true sense of the bill's fiscal impact because the bill employs two budget gimmicks.

The first gimmick involves phasing in tax cuts slowly over the 10-year period covered by the legislation. This "backloading" of tax cuts shaves tens of billions of dollars off the 10-year cost of the House package.

The second gimmick involves having tax cuts expire before the end of the 10-year period, even though the intention is, in many cases, for the tax cuts to be extended and to remain in effect on an ongoing basis.

The Joint Tax Committee has estimated that making permanent most of the temporary tax cuts in the House bill would add \$190 billion to the cost of the bill through 2014.

In contrast, the Senate bill is fully offset and will effectively provide a 3-percent tax cut for manufacturers; give manufacturers a 50-percent tax credit for the cost of adding jobs; extend the research tax credit through 2005; protect hundreds of thousands of workers from cuts in Federal overtime protections; prevent the Federal Government from spending taxpayer dollars on contracts with companies that use foreign labor when there are domestic alternatives; provide a tax credit for companies which produce energy by using un-

derbrush and other potentially hazardous fuels found in our forests; provide a tax credit for consumers who buy hybrid vehicles; protect the California film industry and the jobs it creates; and provide for FDA oversight of tobacco products.

I will be looking for very specific items to be included in the conference report. The final bill should be fully offset and not increase the deficit; contain strong and effective FDA oversight of tobacco products if the bill contains a tobacco buyout provision; and require that any tobacco buyout provision be funded by tobacco manufacturers, not taxpayers; contain a tax credit for the open-loop biomass industry that works to reduce fire hazards in California; and protect companies, such as the film industry, that did nothing wrong under the old law and yet face the possibility of having their tax benefits cut.

And, to the conferees, I want to stress the importance of these provisions to me. These are not ordinary times and we must protect the integrity of our tax system from those who would twist it at the cost of fiscal responsibility.

The long-term budget outlook remains grim. Although the deficit may recede somewhat over the next few years from its current historically high level, it will swell as the baby boomers retire in large numbers in the coming years and eventually reach unsustainable levels. One of the most prudent steps that we as policymakers can take in preparation for this impending challenge is to reduce the deficit today.

Moreover, corporate tax revenues are at all time low levels as a share of the economy. The Congressional Budget Office projected in March that corporate tax revenues will equal 1.4 percent of GDP in 2004—lower than the average levels seen in each decade since the 1940s.

Furthermore, CBO projects that corporate tax receipts will remain at about 1.8 percent of GDP through the end of the decade. This is lower than the average level of corporate tax receipts in each of these decades except for the 1980s, when corporate receipts plummeted from the effects of tax cuts and economic conditions.

Given the historically low corporate revenues, it does not represent sound policy to use the revenues gained from closing corporate loopholes to fund new targeted corporate tax breaks. The goal should be to restore the corporate revenue base, at least in part, in order to help reduce the deficit, not to diminish the corporate revenue base further.

So while I support the Senate version of the JOBS bill because on balance it provides important protections for California workers and businesses, I do so warily and will reserve final judgment until I see the conference report.

Mr. KENNEDY. Mr. President, a new study by the Economic Policy Institute makes clear that 6 million Americans,

including teachers, nurses, cooks, clerical workers, and pharmacists, will lose their overtime protections under the Bush overtime rule. President Bush is once again putting corporate profits ahead of workers and their families. Profits are already up more than 60 percent since President Bush took office, yet workers' wages have actually declined. The last thing America's struggling workers need today is a pay cut.

The Bush overtime rule puts special interests above worker interests. An independent analysis by three former high ranking Department of Labor employees concluded: "we believe that (with the exception of the change in the salary level test) the interests of U.S. workers and their families will not be advanced—indeed will be harmed—by the implementation of these new regulations."

It is clear that the Bush administration is putting business's bottom lines first. The National Association of Manufacturing, NAM, the Chamber of Commerce, the National Restaurant Association, the funeral industry and many other groups lobbied hard for more relaxed overtime requirements. The final rule includes a broad exemption for workers in the financial service industry that helps the insurance and banking industries and for the retail and restaurant industries.

With more than 8 million Americans out of work, and with so many other families struggling to make ends meet, cutbacks on overtime are an unfair burden that America's workers should not have to bear. Overtime pay accounts for about 25 percent of the income of workers who work overtime. Workers stripped of their overtime protection would end up working longer hours for less pay.

The Fair Labor Standards Act was enacted in the 1930s to create a 40-hour workweek and requires workers to 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.

The overtime protection is vital to the 40-hour workweek. If employers no longer have to pay extra for overtime, they will have an incentive to demand longer hours, and workers will have less time to spend with their families.

In 70 percent of American families all parents are working, either both parents, or the single parent, as compared to 1960 when 70 percent of all families had at least one parent at home full time. Workers are already struggling to balance their families' needs with their work responsibilities. Requiring workers to work more hours for less pay will add a greater burden to this struggle.

In May, 99 Senators voted for the Gregg amendment that said it was wrong for the Bush administration to deny overtime to millions of workers, including police sergeants, nursery

school teachers, nurses, computer programmers and others in 55 different job categories. And a bipartisan majority of 52 Senators voted against taking away overtime from any worker currently entitled to it. It would be unconscionable if this bill comes out of conference without those protections.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 4520), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. REID. I move to reconsider the vote and 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 Senate insists on its amendment and requests a conference with the House. The Chair is authorized to appoint conferees on the part of the Senate at the ratio of 12 to 11.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Presiding Officer (Mr. BENNETT) Appointed Senators GRASSLEY, HATCH, NICKLES, LOTT, SNOWE, KYL, THOMAS, SANTORUM, SMITH, BUNNING, MCCONNELL, GREGG, BAUCUS, ROCKEFELLER, DASCHLE, BREAUX, CONRAD, GRAHAM of Florida, JEFFORDS, BINGAMAN, LINCOLN, KENNEDY, and HARKIN conferees on the part of the Senate.

#### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business for debate only with Senators speaking for up to 10 minutes each.

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

#### A TRUE FRIEND OF AMERICA: C.J. CHEN

Mr. DASCHLE. Mr. President, later this month, our country will bid farewell to a good friend. Chen Chien-jen—known to all of us as C.J. Chen—first came to Washington 33 years ago and has spent over 20 years here working to promote a better relationship between the United States and Taiwan. As he retires and returns home, C.J. will leave the people of Taiwan a legacy of a strong relationship with the United States and deep support from the American people.

C.J. has strived to represent the people of Taiwan in the foreign service for 37 years, 20 of which have been spent here in Washington. He began his ex-

emplary service in the United States in 1971 as Third Secretary in the Embassy of the Republic of China, and remained in Washington after 1979, working with Congress to draft the critical Taiwan Relations Act of 1979. From 1983 to 1989, he served as deputy representative of the Coordination Council for North American Affairs, Taiwan's diplomatic mission to the United States. And for the last 4 years, he has admirably headed the current mission, the Taipei Economic and Cultural Representative Office.

C.J.'s leadership as Taiwan's chief diplomat to the United States has been remarkable. During his 4 years as representative, he has helped elevate the United States-Taiwan relationship to unprecedented strength. He has championed the passage of critical legislation by Congress, and he has worked with Congress and the White House to cement the United States commitment to strengthen Taiwan's self-defense. At the same time, he has educated his own leadership and people about the United States, our people, and our policies.

But for me, and for many of us in Washington, C.J. Chen will be missed not only as an outstanding diplomat, but as a close personal friend. During his time in Washington, I have had the opportunity to get to know C.J. and his wife, Yolanda Ho, very well, and I will miss them.

While C.J. will no longer serve his people in an official capacity, I know that he will continue to contribute to building United States-Taiwan relations. I wish C.J. and Yolanda a long and happy retirement, and hope they will often return to visit their friends here in the United States.

#### LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I 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.

On August 18, 2000, a group of boys shot through the front window of a well-known lesbian bar on Capitol Hill, known as Phase I. Though witnesses identified a gang of young boys as the perpetrators, they escaped without being apprehended. Three years earlier, a canister of tear gas was tossed into a gay bar two blocks from Phase I, and police classified that crime as a hate crime.

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. By passing this legislation and changing current law, we can change hearts and minds as well.

#### HUMAN RIGHTS IN LIBYA AND IRAQ

Mr. KENNEDY. Mr. President, I bring to my colleagues' attention a thoughtful op-ed article published in the July 13 Washington Post by Mona Eltahawy, a London-based Arab journalist.

The article raises an important question about a double standard on human rights between Libya and Iraq. The United States overthrew Saddam Hussein's regime because he was a brutal dictator, but we embrace Libya's Qadhafi despite the fact that he is a brutal dictator.

About the double standard Ms. Eltahawy wrote: "In the absence of weapons of mass destruction, and with images of Hussein on trial for war crimes, they have been pushing the 'removal of a brutal dictator' excuse for the invasion. How do they square this with their astonishing rush to embrace another ruthless dictator? Qadhafi's behavior of late has been uncomfortably close to brutal."

Libya remains, according to the CIA World Factbook, "in fact, a military dictatorship" under Colonel Qadhafi. His government "continued to commit numerous, serious abuses," including arbitrary arrest and detention, and restrictions of "freedom of speech, press, assembly, association, and religion," according to the February 2004 State Department Human Rights Report. Violence and discrimination against women are serious problems as well.

A recent visit by Amnesty International to Libya found that "a pattern of human rights violations continues, often justified under the new rhetoric of the 'war on terror.'" Amnesty International's findings include "laws which criminalize the peaceful exercise of freedom of expression and association, leading to the imprisonment of prisoners of conscience; prolonged detention without access to the outside world, which facilitates torture; and unfair trials, in particular before the people's court which tries political cases. Torture and ill-treatment continues to be widely reported, its main use being to extract 'confessions.'"

The Qadhafi regime also continues to intrude in the affairs of other African nations, despite Secretary Powell's call in February 2004 that Libya "cease to be destabilizing, cease to fund despotic regimes, and cease to cause trouble." According to Assistant Secretary of State for Near Eastern Affairs Bill Burns, Libya was involved as recently as February in sowing instability throughout Africa. "There have been problems . . . in Zimbabwe. There have been problems . . . in Liberia and elsewhere," he said. "We continue to have concerns" in the Central African Republic, he also said.

In the Central African Republic, Libyan troops were reportedly directly involved in 2001 in halting an army revolt against the president. A year later, Libya and the Republic agreed on a 99-