

Senate Democratic Policy Committee Hearing

Thursday, December 11, 2003

10:00 a.m. to Noon

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"Will the Bush Administration's Overtime Proposals Mean Less Pay and Longer Hours for American Workers?"

DORGAN: We will begin the hearing. This is a hearing of the Democratic Policy Committee. Welcome all of you. We will be joined by a couple of other colleagues in a few moments. We've also invited some colleagues from the House of Representatives to join us this morning. We're very pleased by their presence. Let me begin by saying that the issue this morning is the proposed regulations dealing with overtime. Those who are proposing the regulations dealing with overtime, in the Department of Labor, are proposing changes in overtime rules. These rules have existed for over six decades, and the proposition of these rules is that those who work overtime in this country should be paid for that overtime. And overtime is defined as work over 40 hours a week.

Now, the rules that have been proposed by the Department of Labor are rules that they describe as very minor adjustments, very minor changes. In fact, I believe they could impact 8 million to 10 million Americans, many of whom rely on overtime wages -- when they work overtime, they rely on that income for themselves and their families. And we're very concerned about these regulations. And for that reason, we've had a healthy and aggressive debate about them in the U.S. Congress.

Both the U.S. House and the U.S. Senate have voted to scuttle these new regulations. And yet, even as I speak today, the omnibus appropriations bill which is being cobbled together by the majority party, apparently -- we are told -- contains nothing that would stop these regulations. They have decided to try to jettison the provisions that have passed both the House and the Senate that would put an end to these overtime regulations, regulations which would threaten overtime pay for 8 million to 10 million Americans.

I have more to say about this, but I just wanted to open the topic here. Let me call on my colleague, Senator Kennedy, who has worked very, very hard and worked very long on this issue. And he knows this issue, perhaps, better than anyone in the Senate. Senator Kennedy, we're pleased that you joined us this morning.

KENNEDY: Well, thank you very much. And I want to thank, Senator Dorgan, our House friends coming together and particularly those who will be testifying before the committee about

what's happening out in Main Street across this country.

I read in one of the national newspapers today that the economy is back. It was describing what was happening in New York City, how the profits were up for the -- earnings were up for the major companies of this country.

And I think that's a different message than many of hear. There are 12 million children who are hungry in America today -- the 9 million Americans who are unemployed; 7 million Americans who haven't had an increase in the minimum wage for the last seven years; 80,000 workers who have worked hard, played by the rules, contributed to unemployment compensation -- 80,000 a week that are going to lose their unemployment coverage at the end of December.

And on top of all of this, we have the proposal by the administration to cut back on overtime pay, as Chairman Dorgan has pointed out, that has been rooted in our society in the relationship between workers and employers for a period of 60 years. And every other time, every other administration where the issues of overtime have come up, they've always been expanded, in terms of permitting workers to provide for their families in an important way.

Just very quickly, what is really the story for workers in America? This chart behind me shows that American workers are the hardest-working workers in the world. They're working more than 100 hours a year more than any other industrialized country in the world. They're the most productive. They're working harder, because they want to provide for their family and they want to achieve the American dream. And now, with the attempt by the administration to scuttle overtime, this is the response by the administration for workers and hardworking workers' overtime. The next chart shows the cuts that will be for -- under the administration are primarily hit police officers, nurses and firefighters. Do you hear that? They are the ones that are the front line in homeland defense. We hear the administration talk about homeland defense. We hear in the Congress the fact that we do not believe that this administration is providing for the homeland defense. Certainly, it isn't in resources what it's providing for Iraq.

We believe that there should be investment in homeland defense that starts with real people: real people, police, firefighters, and nurses. This overtime will adversely affect those individuals. That will be on the (OFF-MIKE) This chart here is enormously important. Why? Because it shows that if you don't have overtime protections, workers are exploited. Listen to me, workers are exploited. These figures here show that with overtime -- the two parts on the left -- show with overtime protection, there's a 19 percent increase in the work for overtime -- if you pay overtime. If you don't, it's up to 44 percent. That's what this is all about: to try to exploit the workers. This is for over 40 hours. If it's for over 50 hours a week, it's three times higher the employers require from workers. That's what this is all about. It's unfair at the core. We know who the beneficiaries will be in this legislation. It'll be the companies and the corporations that are going to exploit -- the people that will be disadvantaged, penalized are going to be the workers. And we know the percent in total pay is overtime. It's a major aspect for middle-income families, for workers for being able to hold on.

Finally, we wanted to show that this is basically a women's issue. It's a workers' issues, but it's

primarily a women's issue. Because we're seeing that the number of hours that are being worked by women today have increased so dramatically, providing for their families.

So this is not only a workers' issue, it's a women's issue, because they are the ones that are working harder, will be most disadvantaged. It's a homeland security issue, it's a family issue and it's a fairness issue. People that work hard in America ought to be compensated. That's what we believe and that's why each and every one of us at this table are going to fight against this administration's proposal. Thank you.

DORGAN: Senator Kennedy, thank you for putting this in such clear terms for all of us. I want to add to your comments by pointing out that Secretary Chao -- we did invite the labor secretary to be here today. We asked her to provide opening testimony to describe these new rules and she has declined to do that.

But I want everyone to understand that we invite both sides to these hearings, and we would have very much have liked to hear from Secretary Chao and to have asked her questions.

But Secretary Chao has dismissed arguments of the type of that Senator Kennedy has just offered, by saying that businesses are lobbying for these changes but, quote, "not because they're getting any particular benefit; they just want clarity." That's according to the labor secretary.

But let me just point out that Hewitt Associates, a leading human resources consultant, noted that, quote, "Employees previously accustomed to earning, in some cases, significant amounts of overtime pay, would suddenly lose that opportunity." That's what one of the leading consultants is telling business.

And Proskauer Rose, a law firm that represents employers, noted, quote, "Thankfully, virtually all of these changes should ultimately be beneficial to employers." It describes exactly what Senator Kennedy was alleging. These changes that are proposed by the Labor Department are changes that could have a devastating impact on workers in this country who work overtime, who receive overtime pay and have, for six decades, been accustomed to receiving overtime pay for overtime work. These rules appear to me to be designed to undermine those workers and to be beneficial to American business. And that's what I think the rules are about. We are joined by a number of colleagues from the House of Representatives. I'd like to ask them for brief opening comments. And then we have two panels that we're going to hear from this morning. Let me call on Representative John Tierney.

TIERNEY: Thank you, Chairman. And thank you and Senator Kennedy and my colleagues for all being here today on an important subject. I thank the panelists for their anticipated testimony. You know, you are both right, both senators. What this administration has done, in terms of presiding over a loss of more than 3 million private sector jobs -- and the measure of whether or not this economy is returning will not be the Wall Street ticker tapes, but how many jobs are returned to people that pay a decent wage and allow them to support their families and their communities. This administration has failed to raise the minimum wage. It's allowed millions of older workers to lose their private pension benefits. It's denied unemployment benefits to millions of workers who have exhausted their federal unemployment insurance benefits. It's

denied low- and middle-income families real tax cuts, including the child tax credit for many who are earning between \$10,000 and \$26,000. And now it seems we want to take aim at overtime.

What we hear when we go back to our constituencies is how hard people are working. Yes, our productivity is up, but in large part the productivity is up because more people are working longer hours. And now this administration would like to take away the overtime premium for that extra work.

I agree with Senator Kennedy: This group of people here and many others in the United States Congress are not going to sit idly by while this occurs. Senator Kennedy saved me the task of reading a long list of the nature of jobs that will be affected by this administration's proposal, but nobody should be fooled: This administration is presiding over the largest transfer of wealth from the low and middle class to the already wealthy since the days of McKinley.

And this is just one more effort. If they had their way, nobody would pay taxes except for the people that work, and people that work wouldn't get paid well for what they do in order to bring our productivity up.

I think that the Fair Labor Standards Act can be changed to more accurately reflect today's situation, but that would not be the way the administration is doing it. It, in fact, would add people to the rolls of those that would be eligible for compensation. Almost 200,000 people in the state of Massachusetts would be adversely affected by the administration's activity. And so we are here today and we are looking forward to the testimony of the panelists who use that information to go out and fight this administration's effort to make sure that the people who show up to work every day, play by the rules, want to support their families and their communities have the opportunity to do that and to get rewarded for the work that they do. Thank you, Mr. Chairman.

DORGAN: Thank you very much. Representative Sanchez?

SANCHEZ: Thank you. First of all, I'd like to start by commending Senate Democratic Policy Committee Chairman Dorgan for calling this very timely hearing today. As the co-chair of the newly formed Labor and Working Families Caucus in the House, I strongly support overtime protections. For many hardworking men and women overtime pay is not just spare change; it helps them pay their mortgages, it helps them put their kids through college, it helps them make rent, it helps them save for their retirement.

And as a card-carrying member of the International Brotherhood of Electrical Workers Local 441, I've seen the importance that overtime pay plays in the lives of working families. Not only is overtime a question of pay, but more importantly it's a question of safety. Typically, the only thing in the construction trades that stops contractors from forcing construction workers

to work more than eight hours a day is the prohibitive cost of overtime pay. And you can imagine that eight hours of very physical construction work can take a toll on any worker and lead to unsafe conditions if the worker is fatigued.

And believe me, construction work is but one little example of the many jobs that can compromise safety if workers are fatigued while they're trying to perform their work. The change in overtime regulations, as they said, in the name of clarity or simplicity to me is nothing but an assault on working families. It reduces their income and takes away their time together. I recently spoke with a mother in my district who would be financially devastated if the changes in overtime pay take place. Her name is Lori Colmanaco (ph), and she lives in Paramount, California with her daughter.

Lori (ph) is a clerk for a grocery store and she now has been on strike for 67 days fighting to keep her health care benefits as well as her job security.

When I asked her what overtime means to her colleagues and herself personally, she stated to me that workers deserve to be compensated for their work. With the change in the law, companies will want workers to work whatever hours, whenever and wherever they choose. This is just inconceivable. She further states, "My financial stability will be devastated if overtime pay is taken away. I rely on this money month after month to feed my family."

She further went on to say that, "President Bush touts family values and compassion. But when you take away overtime pay from hardworking families, it means that I will spend less and less time with my daughter because I'm working more and more hours with no pay.

"What does this mean to society in the long run? It means that many of our children will not have the supervision or role-modeling they need just to save a few dollars for corporations.

"The president does not realize that the change in overtime is also going to put additional strains on families who are already struggling in a bleak economy." Those were her exact words.

I'm sharing that story today because Lori (ph) is like many Americans who work hard to raise their families right, and they play by the rules. It's important that we highlight and show how this affects real working Americans. They are our neighbors, our families and our friends.

What message does Congress want to send to hardworking Americans like Lori (ph): that we don't value their work enough to fairly compensate them for it?

This week, I, along with many of my Democratic colleagues in the House, took a courage stance by voting against the omnibus bill or, as we like to call it, the "ominous bill."

For me, I believe that I needed to protect the overtime pay for millions of hardworking Americans, including cops, nurses, firefighters and many others who care for our safety. That fight now moves on to the Senate.

Republicans in Congress and President Bush prefer to provide tax cuts for the very wealthy, while cutting the pay of Americans. So much for their claim of being compassionate. Republicans and the president need to stop stiffing working families. Working families need and deserve their overtime pay.

So I'm very much looking forward to the testimony of our witnesses today. I'm sure they're going to shed further light on how this is going to have a devastating effect on workers in the United States. Thank you.

DORGAN: Representative Sanchez, thank you very much. Next, Representative Grijalva?

GRIJALVA: Thank you, Mr. Chairman, Senator Kennedy and my colleagues from the House for organizing this hearing today. The loss -- the hard-earned right of working people to receive overtime is under attack by the Bush administration, Mr. Chairman, as you pointed out, despite the House and the Senate voting against the stripping of overtime protections and pay for working folks in this country.

GRIJALVA: And I think this hearing today is not only timely, but it is critical to assuring that the American public is aware, educated and prepared to fight this legislation and prepared to fight the Bush administration as they begin to try to strip and continue to try to strip the hard-earned rights and benefits that working families have in this country.

I also want to thank the working men and women that are going to be here today educating us about the Bush administration, what it means to their families, what it means to their checkbooks, and what it means to the quality of life for our country as a whole.

And I'm happy to be here to add my voice to a chorus of outrage that is occurring across this country as working people across this country are fighting the dismantling of hard-earned rights, benefits that have been part of the legacy and the history of fairness that this country has provided to its working people. Yesterday, ironically enough, December 10th was International Human Rights Day. And I think that day and that document are of special importance today at this hearing. Article 23 of the Universal Declaration of Human Rights states that everyone who works has the right to a just and favorable compensation, ensuring for himself and herself and their families an existence worthy of human dignity and supplemented, if necessary, by other means of social protection. The next article further states that everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay. I point that out because I believe that the right to overtime is a basic human right. Workers' rights are human rights. And I'm glad to be at this hearing. And thank you, Mr. Chairman.

DORGAN: Thank you very much, Congressman. Next we will hear from Representative Ted Strickland. Ted?

STRICKLAND: Thank you, Senator. And I will be very brief. I want to thank my colleagues on the Senate side as well as my House colleagues for this hearing. As Representative Tierney has pointed out, this is just the latest in a series of attacks on working people.

I had the opportunity a few weeks ago to be in Juarez, Mexico. And I talked with a mother there with four children who works for an American company, and her total take-home pay is \$38 a week. There is a concerted effort to squeeze as much as can be squeezed from working people in this country. And it is time that those of us who have been elected to represent the people draw a line in the sand and say, "No more." We cannot allow the administration to be successful with this obscene effort. And I would just end my remarks by saying, one of the witnesses today is a

constituent of mine. Cathy Stoddart is from Mingo Junction. She is a member of the nursing profession. And, Cathy, I'm so proud that you're here, and I look forward to hearing your testimony, as well as the testimony of every other witness who presents to us today. Thank you, Senator.

DORGAN: Congressman Strickland, thank you very much. Let me thank all of my colleagues for joining us. Senator Wyden we expect will be here as well. Let me say, in the next panel we have Doug Dority, who is the president of the United Food and Commercial Workers, and I really appreciate his willingness to come. And I'll introduce him in a bit, except to say now that my expectation is that his membership, perhaps more than any other in organized labor in this country, would be affected by these rules. And I appreciate him changing his schedule and taking time to be with us. Before we have that panel, however, with the president of the United Food and Commercial Workers, we have three people we have invited to talk to us today. John Garrity is a civilian electronics technician at the Naval Surface Warfare Center in Philadelphia, Pennsylvania. He also works part time at the Home Depot in his hometown of Newark, Delaware. Let me say to you, Mr. Garrity, that Senator Biden and Senator Carper were not able to be with us today, but they did want us to greet you on their behalf.

DORGAN: We're very pleased that you have come. In addition to Mr. Garrity, Cathy Stoddart, who Congressman Strickland just mentioned. She's a registered nurse at the Allegheny General Hospital in Pittsburgh, Pennsylvania. She lives in Mingo Junction, Ohio, and is a registered Republican who's been active in the Ohio Republican Party. Cathy Stoddart, thank you for being with us. And then John Miller -- John is a corporal with the Annapolis, Maryland, police department and he lives in Greensboro, Maryland.

And similar to Mr. Miller, Senator Sarbanes and Mikulski could not be with us this morning, but they wanted to thank you for being here.

So let me begin with Mr. Garrity, again, a civilian electronics technician at the Naval Surface Warfare Center in Philadelphia, a part-time worker at Home Depot in Newark, Delaware.

Mr. Garrity, thank you for taking time to come to the U.S. Senate today and be with us.

GARRITY: Thank you, Senators. Good morning. I'd just like to add a few comments. Senator Kennedy's pretty familiar with fighting for our civil servants, and he knows the attacks that we're under. This is just one of many attacks from the administration this year. If it isn't this, it's attacks to privatize our jobs. If it's not the overtime issue, it's Mr. Rumsfeld's Transformation Act, which waives many civil service protections that we were under. That has gone away. It's been one attack after another with this administration. The folks that I work with at our facility down there feel that we're losing our rights in this country. I'm actually more afraid of the Bush administration right now than I am of Al Qaida. I think we're in a very dangerous situation in this country where people are losing their rights, our fundamental rights, especially the 40-hour work week. Let me go ahead with my testimony, here.

My name is John Fitzgerald Garrity. I'm 40 years old. I've been married 10 years. I'm a father of two pre-school-aged children. Our third child is due in May.

I work full-time as an electronics technician at the Naval Surface Warfare Center in Philadelphia, Pennsylvania.

I began working for the Navy in 1989 when I was hired through a community college co-op

program. I qualified for this position through a four-year Navy apprentice program. Many of my co-workers are military veterans who qualified for their technician positions with military training. My job is to inspect electronics equipment on board Navy ships, such as vertical package conveyors.

My base pay is \$55,000 a year. I work, on average, 300 hours overtime per year for the Navy. My most recent overtime assignment was a sea trial on board the USS Ronald Reagan, which is currently undergoing routine maintenance at Norfolk Naval Shipyard.

During a sea trial, Navy civilian workers go to sea with military personnel to test the ship's equipment and systems. During this time employees like me who are entitled to overtime pay are paid time and a half for eight of the 16 hours worked each day. Which is most of the time we go out at sea, so the eight hours overtime we work is out at sea, away from our family. We don't get to go home at night. So that overtime is earned overtime that we really need for our families.

In addition, I earn about \$12,000 per year in overtime from my Navy job. I will lose a third of that pay if I lost my right to full time and a half for overtime.

I also work part time in a nearby Home Depot, typically two nights during the week as well as Saturday and Sunday. My job title is a sales associate. I'm also concerned that I'll lose my part-time job if the Department of Labor relaxes overtime regulations and pay rules.

Home Depot has a strict work rule prohibiting full-time workers from working overtime. Instead, Home Depot uses part-time workers like myself to keep its labor costs down. If Home Depot can work its full-time workers longer hours without paying them overtime premium, there will no longer be an economic reason to hire part-timers like myself.

My wife also works full time at an admissions department at a Wilmington hospital. We both work hard and long hours to keep up with our living expenses and provide a good life for ourselves and our children. For those of us who do not control our work schedule, overtime pay is simply fair compensation for long hours we spend at work.

As a skilled technical worker, it's less expensive for the Navy to pay me overtime than to hire and train additional technicians. I have no doubt that if the Navy could work more hours for the same pay, they would do it.

I also know that at my Home Depot job that the overtime pay requirement creates jobs. Those jobs do not require a great deal of skill or training, as it is cheaper to hire more workers than it is to pay overtime to full-time employees.

I was shocked to find out that the Department of Labor plans to eliminate overtime pay for workers like me. How the Department of Labor could think of cutting the wages of working- and middle-class Americans and cause the elimination of those who need so many jobs in today's economy is beyond me.

To add insult to injury, the new rules will eliminate overtime pay for military veterans who gained their technical training in the military.

The overtime laws are sacred as far as I'm concerned, and I know that working people fought and died for the 40-hour work week. And all Americans are better for it.

I appreciate those of you in Congress who are working hard to block the Department of Labor's plan to eliminate overtime. I hope you succeed for my sake and the millions of workers and their families who would lose pay because of the new overtime rules.

DORGAN: Mr. Garrity, thank you very much. Next, Cathy Stoddart.

And when I mentioned, Cathy, when I introduced you that you were a Republican, the only

reason I mentioned that is that's in your testimony. I did not solicit that.

But thank you very much for being with us. You are a registered nurse. You live in Mingo Junction, Ohio. And we very much appreciate your willingness to come and testify.

STODDART: Thank you, Senator Dorgan. And I would like to add to my comments, as well. Yes, I am a registered Republican, not sure how long I'm going to stay a registered Republican. But, you know, this administration has had an attack on working families and specifically health care workers from the moment they took office, taking away the ergonomics pay for nursing-home workers. That's one of the most dangerous jobs in this country; it's been documented as such. And the things that they could have used to take care of patients and safely do that job and stay in the work force long enough, without being hurt; that was the first attack. And I don't believe the attack on health care workers has stopped since. I will go ahead and read my testimony. My name is Cathy Stoddart and I am a registered nurse at Allegheny General Hospital in Pittsburgh, Pennsylvania. It's a level- one trauma center. And I am also a member of SEIU, District 1199P in Pennsylvania. It's our health care union. I'm sure all of you have heard about the nursing shortage, and I know that I've seen Senator Kennedy stand up for us in this country about the nursing shortage.

And a lot has been written about it, especially in Pennsylvania, where I work. One out of four nurses is sitting home, rather than work under the conditions that we have to work under. Instead of improving conditions that are driving nurses away, many hospitals are making it worse, by requiring nurses -- forcing them to work 12, 16 and 20 hours straight.

There have been countless studies demonstrating the result of these policies. Working too many hours, while caring for too many patients leads to increased patient injuries and patient deaths. But nurses like me don't have to read about these studies. We live it every day.

By about halfway through our double shift, we are exhausted. But instead of taking our break time to catch our breath or even eat our lunch, we spend our free moments touching base with our fellow nurses, checking our medication doses that we're about to administer, so that we know that we are administering the right doses and that, in our fatigue, we haven't made a mistake that would harm a patient. It's no wonder so many of us are leaving.

And now President Bush and the Republican members of the House and Senate are trying to take away the one thing that discourages hospital administrations from forcing nurses to work overtime. And I'll be honest with you, it really doesn't discourage them. Nurses are forced around this country to work 12, 16 and 20 hours

In addition to being a registered nurse, I am a registered Republican and I have been active in the Republican Party in my own home state of Ohio. But several weeks ago I wrote a letter to President Bush, for which I hadn't heard an answer. And I'd like to read some of that letter to you now.

"Nurses have a demanding and challenging task, as patients are sicker because they cannot afford to come to the hospital when they should. And we are expected to do more with less resources faster and longer, but with complete accuracy.

"These working conditions, which include forced overtime for nurses, -- and those nurses currently get paid -- are driving nurses out of the profession.

"There is a nursing crisis right now with registered nurses sitting home rather than working under conditions where they cannot fully meet the needs of their patients. Nurses are currently paid overtime pay for forced overtime, but they are still leaving in record numbers -- the new nurses

and the experienced nurses -- due to working conditions.

"The Republican members of the House and Senate, under your direction and pressure, have changed the overtime pay laws so that now nurses and the rest of middle-class working America can be forced to work overtime and not be compensated by their employer with overtime pay.

"You proposed that homeland security and civil defense are a priority, but you have set this country on a national health care crisis path.

"I believe this means that patients in this country will be left unprotected by you unless they go to a hospital that respects its workers and the patients they care for, a hospital that pays for overtime and has a ban on mandatory overtime, and safe working conditions so that patients can have the highest quality of care that they deserve. "Health care workers have been protecting this country one patient at a time, returning them to health so that they can make a contribution to society.

Now, it looks like we must do it one seat at a time, by removing you and those who support you, and returning this country to health so that we as a country can make a contribution to our world society." I want to leave you with one last thought which occurred to me as I was riding the bus in Pittsburgh the other day doing some Christmas shopping. As I was sitting there on the bus, I realized that if this law goes into effect, the bus driver who is driving me around will still get his overtime pay if he works extra hours, and he should.

But there will be no overtime pay for nurses. And when a nurse is working in her 20th hour -- something a bus driver will never have to face as there are laws that set safe limits for his operation of the bus -- I will be setting up the IV that could save or take your life.

I urge you to continue all of your efforts to prevent this disastrous regulation from going into effect, if for no other reason than you or someone you love could be at the end of that IV.

Thank you.

DORGAN: Cathy, thank you very much. Thanks for being a nurse and thank you for being here to testify. Next, we'll hear from John Miller. Officer Miller is a corporal with the Annapolis Maryland Police Department. He lives in Greensboro, Maryland. Mr. Miller, thank you for joining us.

MILLER: Thank you, sir. I'm glad to be here. I'm here to represent 120 Annapolis police officers that are very concerned about this overtime. All Annapolis police officers depend on overtime to survive and provide for their families. I could have had a bus of officers that wanted to come to testify on this particular item. However, I do have another police officer here, John Lee, who has 10 years and is also concerned about this. I have over 17 years in law enforcement. I'm a veteran. I'm currently a staff sergeant with the D.C. Air National Guard and was called to 9/11, at which point I was in the middle of training when I left to go serve my country for 20 months where I performed homeland security as a security police officer in the Air Force. We are represented by UFCW Local 400, which we are proud to say. I'm a supervisor in the Annapolis Police Department with the traffic safety unit. My principal duty is public safety. I've helped provide escort protection for the president, vice president and other dignitaries that visit Annapolis, along with the U.S. Naval Academy. Being the capital of Maryland, we have demonstrations, and most of the officers that work these demonstrations are paid by overtime. Not only do we protect the capital, we also have programs for DWI, speed enforcement and other activities that are paid for overtime by federal grants that if it wasn't for that certain protections wouldn't be available to the citizens that we serve.

Like every other police department, we would not be able to perform a lot of our duties without the flexibility of overtime. And eliminating the overtime pay for our first responders would have a devastating impact on our department's ability to perform vital public safety functions. Most police and other first responders cannot afford to perform overtime work without overtime pay and would be extremely resistant to working unpaid overtime. Thus you would have morale issues. Forced unpaid overtime would seriously compromise public safety as well as undermine officer morale and department structure. Public safety departments faced with the possibility of unpaid overtime would likely demand even more hours from first responders, further straining morale and undermining job performance. In addition, officers will have less time to volunteer for such things as the National Guard, further compromising the effective (ph) strength of our armed forces. Like many police officers, overtime pay constitutes approximately 20 percent of my total income. For some officers in our department, overtime pay is 25 to 30 percent of their income. If I were to lose that pay, it would radically change my family life. We would have to move into a different home, as we could no longer afford the mortgage on our present home. Already, I have to live about an hour's drive from Annapolis in order to find affordable housing. I'm sure our new home would be even further and my 19-year-old son Brad and my 16-year-old daughter Vanessa would be forced to change schools.

MILLER: If I were to lose that pay, my son's college plans -- which I'm proud to say he'd like to follow in his father's footsteps -- would be in danger. And so would my daughter's, who would like to become a nurse. Family vacations and many other things that are part of the middle-class lifestyle would be out of the question.

Like any other police officer, I'm very proud of the work I do. Working in our state capital, I feel a sense of camaraderie with your own Capitol Hill Police.

Like them, we work hard and are willing to take risks to assure that the public and public officials, such as yourselves, are safe and secure in their homes, offices, schools and on the road. Paid overtime work takes us away from our families, but allows us to do our job and to afford many of the things that make our family lives better.

I know I speak for many first responders everywhere when I say I'm extremely disappointed that our government would reward our hard work and public service with a massive pay cut.

I implore you to do everything in your power to assure that the Department of Labor does not issue regulations that would take away our overtime pay.

And, again, I'd like to take this opportunity to thank you for letting me speak on this matter.

DORGAN: Officer Miller, thank you very much for being with us and providing the testimony. What I'd like to do, with the permission of the senators and the congressmen who are here, is I'll ask a question, and perhaps limit just one question to this panel, and then I'd like to get President Douglas Dority, Ross Eisenbrey and Ellen Bravo to testify.

And if the three witnesses who are before us now would be able to stick around, we can then ask questions of all six. Because the other three are going to present testimony that I think is also relevant and will amplify a bit on what the three that have just testified had told us.

Let's each ask a question of this panel. And your presentations describe, I think, in personal detail why these proposed regulations are dangerous for a lot of working families who rely on overtime when they work overtime.

Mr. Miller, my understanding of the law enforcement job -- I suspect in most cities -- is that

when arrests are made, then you have to fill out paper, and you have to go to court and do all of these things. And much of that is required to be done after the shift is completed, and much of it is done in overtime. And that's just the way law enforcement works. And as a result, many law enforcement officers work a great deal of overtime. Is that not correct?

MILLER: That's correct, sir. Yes.

DORGAN: And without that, I assume, you would need to hire substantial numbers of additional law enforcement officers if you didn't have people working overtime. I have some friends who are in law enforcement working in city police ranks. And they indicate to me that overtime is just a function of the way law enforcement must work to get the job done.

MILLER: I couldn't see how the department could function without it, not only on arrests and going to court. You know, all officer's court times are 108 days off and they're paid to show up to go to court. Special events that we have in Annapolis -- we have the Navy football games, we have the demonstrations, just to mention a few. And I could go on about that. But that's all a function of the police department that wouldn't be able to be taken care of without the overtime.

DORGAN: Let me again say that we invited Secretary Chao to be with us to present testimony because we wanted to have both sides of this. But she says, "Look, employers are not getting any particular benefit as a result of these proposals. They just want clarity." Have you all studied these proposed rules? And is it just that, that the employers want clarity? Or are you convinced that this would jeopardize overtime pay for overtime work for law enforcement officers?

MILLER: This would jeopardize pay for the police officer. And not to mention, I believe it would be a nightmare to the police administration, trying to figure out how they would provide these functions that we provide without the overtime.

DORGAN: Thank you, Mr. Miller. Senator Kennedy?

KENNEDY: Thank you very much. We spend a good deal of time as a country in honoring those that are serving our nation over in Iraq and around the world, as we should. But here we have before us in this committee, people -- in the case of Miller, it was four years, as I understand, in the Air Force -- you were in the Air Force four years. So he's a former veteran. And John Garrity is a part of the governmental workers, where one out of four is a veteran, and where, currently I think it's 13,000 or 14,000 of these workers are serving either in Iraq or overseas. I mean, the men and women of Iraq who were just either back here or representing these same kind of personnel, this is the way we're going to treat them in the United States of America? And here we have a nurse. Nursing is the backbone of the health care system in this country -- absolute backbone of the health care system. We've got a good health care system for those who can afford it, not for the 41 million who haven't even got any health insurance. But the nurses are the backbone of this system, and they are the ones that make it work and take care of us. And this is America. This is what we're looking at in this in our next panel. And the real issue in question: Whether we're going to treat our fellow citizens fairly decently and with the respect and dignity that they have demonstrated when they have served under the colors of this

country abroad? I don't think you can have it one way when you're in the military and then treat people another way and talk about patriotism. If we're going to talk about what this country's about and why it's worth fighting for, it's because we treat our people with fairness, dignity and respect. That's the United States and that's what you reminded us today and that's why overtime cuts makes absolutely no sense at all. Thank you very much for all you've done for our country and continue to do. Thank you, Mr. Chairman.

DORGAN: Congressman Tierney?

TIERNEY: Thank you, Mr. Chairman. You know, I constantly hear people telling us that, you know, people work overtime because they want to, that people work overtime because they're greedy and they've got all these things they want to buy that they don't necessarily need. And it's not what I hear from my friends that work overtime. The fact of the matter is that they have to buy a house that's either somewhat in proximity to where they work or they have to pay for their children's education or they have to pay for child care or they have to take care of some medical bills. I mean, the list goes on and on. And I suspect that it's the same with each of you, as I listen to your testimony.

Mr. Garrity, I know you said your wife also works full time in addition with your job or whatever. So my question to each of you is twofold. One, explain to us whether or not you're spending all this money that people think that you're wasting on things, and things that you don't need, and tell us how you're meeting your needs and how you need the overtime.

And, two, would you just tell us which expense in your household do you think is the most pressing for your family, the largest expense that your family has? Is it your mortgage or your rent, your health insurance, your child care, college expenses for your kids?

GARRITY: I'd say the biggest expense I have is day care. My day care expense for two children, to allow my wife to work a full-time job, is \$1,000 a month. It's only second to my mortgage. When I work overtime it goes to contributing to day care for my children, putting food on the table. It goes to necessities.

People who make \$65,000 or \$60,000 a year -- I think \$65,000 is the cutoff that Ms. Elaine Chao wants to take the overtime away for people -- \$65,000 is not a lot of money if you have a house, a mortgage and day care. You know, it's what middle-class people make today. You know, this is nothing but a pay cut for people; that's all it is.

When I work overtime it's because the United States Navy, the fleet, needs me to go somewhere, to go on a Navy vessel and fix equipment, to fly to Kuwait, to fly to Japan to help the fleet. I have a trip coming up possibly the weekend before Christmas.

I'm going to have to work the weekend. The ship calls my activity, "We need a technician to come up and work on an ammunition ship somewhere."

It's because the defense of the country calls for it in my profession; it's not because I'm greedy or looking for more money. It's to help the national defense.

DORGAN: Ms. Stoddart?

STODDART: The first thing I wanted to say is, you know, nurses in this country aren't working overtime because they want to. They're working overtime because we feel it's our responsibility.

There's a large portion of nurses who work voluntary overtime. In many ways, you can call it "guilted" overtime. If we don't work it, who will care for that patient? It's that simple. On top of that, nurses are being forced regularly, every day, every shift, to work overtime, held hostage at their job, where they cannot leave. And they're being paid, right now, overtime pay for that. Some days you don't really get overtime pay because if you work a short week or if you take a holiday, it's straight time already. And nurses are leaving in droves. It scares me to death. With SEIU, I've talked to nurses across this country, and nurses are leaving because they cannot be proud of the job they do, and they fear that they will harm someone. And that's our goal never to do. So nurses are leaving when they're getting paid. I cannot imagine what will happen to this country if nurses are not paid overtime for the voluntary overtime that they work to protect patients in this country and for the forced overtime that they work when they wish they could go home to their families. So I really hope that you take that under consideration. And for me, having a daughter in college, my economic base is in trouble. Representative Strickland is working very hard, but Wheeling-Pittsburgh Steel is in big trouble. That's the entire economic base of my town. I will not be able to send my child to college for her final year if I don't have overtime pay.

MILLER: I guess to answer your one question, my biggest liability will be my mortgage to be paid for. And then, next, would be my children's college. I won't be able to save, put money into a 401(k) for future, you know. We work hard protecting citizens in Annapolis, and we like to take a vacation. That will be gone. So it'll definitely have a domino effect for all of us.

DORGAN: Thank you. Representative Sanchez?

SANCHEZ: Thank you. I don't have one comprehensive question for each. I'd just like to ask a question of a couple of panelists. As Senator Kennedy so eloquently stated, this is an issue of working people, but disproportionately women are really going to be impacted by the change, if it occurs, in overtime pay. I wanted to ask, Mr. Garrity, you talked about child care, which is a huge expenditure for most families that have two income earners because they have to; they can't afford -- it's a luxury to have women stay at home with children nowadays. And you stated that your wife also works full time. I'm interested in knowing if you can imagine this scenario where overtime work is not compensated -- and I'm just going to make an assumption here, assuming that your wife works a full-time job and then looks after the children in the late afternoon or evening when she gets back. How do you think that that will impact your family if she's forced to work overtime without the extra compensation and your children have to stay longer in child care each day? What kind of financial impact do you see that having on your family?

GARRITY: It's going to mean, you know, less money. I mean, you know, less money for food and necessities. Things will have to be cut back. You know, it might even force my wife, you know -- we can't afford day care, it might force her to quit her job and maybe have to stay home with the children. You know, we could lose a lot of income.

SANCHEZ: I asked that in particular -- one of my sisters has two children; she's a working mother. And there are extra fees on top of the regular child care that she pays if you don't arrive

on time to pick up your children or if they have to stay later than that.

Ms. Stoddart, my sister-in-law's a nurse, so I'm well aware of the, quote, unquote, "optional overtime for nurses." She has told me horror stories. She actually has left the profession. She told me horror stories about her days off when she would be harassed by hospital administrators who would call her to ask her to please come in and work an extra shift or that, you know, they didn't have enough nurses.

Can you talk a little bit more about the current working conditions of nurses and how eliminating overtime pay -- and you already mentioned that many nurses would leave their profession assuming that the overtime hours get even longer for nurses?

STODDART: Well, as you know, in this country there are no laws that protect how long a nurse can work. And I think it's unconscionable as a country. A bus driver is protected driving you around, and taxi and airplane pilots, but I save or take your life depending on how tired I am. And there are no laws that say how long we can work.

I'll tell you, in my hospital we have a union and we have -- five weeks now, no mandatory retirement in our building. a level-one trauma center; I'm so proud of Allegheny General. And we figured it out. So nurses are not forced in my hospital. But there's still a lot of voluntary overtime. I think that for nurses -- there are a lot of single moms that are nurses. And in my valley most of the steel workers are married to nurses. So I can't imagine the impact that it's going to have on their home life. And I am truly fearful in this country that nurses are going to continue to leave, like your sister-in-law.

If you can't be proud of the job that you do, if you can't feel safe and happy, if you can't provide a good and caring environment for your patient, it diminishes your self-esteem. It diminishes your ability to perform. And you don't want to be in that position where someone's life is in jeopardy because of something you can or cannot do because of overtime.

SANCHEZ: Thank you. I have no more questions.

DORGAN: Representative Grijalva?

GRIJALVA: Thank you, Mr. Chairman. Very quickly, just to thank the panelists. I appreciate your comments very much. And just to let you know that you represent your professions and the people that work in your professions very, very well. And I believe that your statements today are merely a reflection of every one of them. And so, just to thank you. Thank you, Mr. Chairman.

STRICKLAND: Thank you, Senator. I just want to thank you for being here and for sharing your lives, your stories, your families, your hardships, your concerns with us. I was just sitting here listening to you, thinking, "You know, I wish Secretary Chao was here; I wish President Bush was sitting here looking at you and listening to you." I truly think these people are so out of touch with the real problems facing working people in this country. I don't know who they think they represent. But they certainly don't represent the American working people. And I just want to thank you for being here. I think it's admirable that you've been willing to share your stories with us.

And, you know, we've just got to keep hope, keep faith. And we've got to be willing to fight,

because if we aren't willing to fight, they're going to win. It's as simple as that. So thank you for your involvement. Thank you, Senator.

DORGAN: Congressman Strickland, thank you very much. Let me add my thanks.

I was thinking, as Officer Miller was talking about the trip that many of us took to 9/11 -- the trip that we took from the United States Senate was a trip, I think, four days after 9/11 or maybe five days when there was still fire there.

And I remember most of the faces of the firefighters. And those who came to talk to me through blood-shot eyes lost their friends and lost their co-workers in those buildings and hadn't had any sleep. And the issue for them wasn't overtime; they were just working hard.

That's what firefighters do. It's what people involved in public safety do. They respond to emergencies, work hard. But every day across this country we've got firefighters, law enforcement officials, nurses, technicians who work very hard, do the best job they can when asked to work overtime. For six decades, they've been protected and told if we ask you to work overtime, they'll be paid overtime pay. And now we have this proposal that seems to me to come from a special interest that pervades most policies coming to us from this administration, and that is let's help out the big folks and do it at the expense of the little folks.

And Bob Wills & His Texas Playboys back in the 1930s in one of their songs had a verse about that. It's, "The little bee sucks the blossom. The big bee gets the honey. The little guy picks the cotton. The big guy gets the money."

That kind of influence exists in so many policies rooted in special interests here in this town, and none is more prevalent than this. None is clearer to me than this.

And Congressman Strickland said it right. I mean, there needs to be a line here that we draw. Are we going to draw a line here some place? Or is this a race to the bottom of wages and hours, working conditions?

One of the witnesses said that we've struggled for 100 years in this country about these issues.

We had people die in the streets for the right to organize. We've had people engaged in demonstrations and debate about child labor, about safe work places, about not allowing factories to dump their pollution in the air and the streams, about overtime, about workers' rights.

And now people pole vault over that and move a plant to Asia just like that to avoid all those things. And then, in this country, we say, "Well, we won't pay attention to the requirement of fair trade, we'll just let these jobs go. And by the way, the jobs that are still here, what we'll do is we'll diminish them for those who have those jobs by saying, 'let's modify the overtime rules!'"

Well, "modify" is a euphemism for, "Let's try to see if we can't overtime away from hardworking people in this country." And they say it's just a tiny little adjustment, but we'll hear from witnesses this morning that describe that little adjustment as affecting the take-home pay of up to 8 to 10 million workers in this country. That's not an adjustment. That's a big, big problem and a big mistake. And we wanted to have the first panel be comprised of people who would come to us to tell us their personal experience with overtime, why it's important.

And Mr. Garrity, Ms. Stoddart and Mr. Miller, thank you very much for taking your time to be with us today. Now let me call Douglas Dority, if I might, and Ross Eisenbrey and Ellen Bravo. Doug Dority represents the United Food and Commercial Workers. He is the international president of UFCW. Mr. Dority started as a retail clerk in a grocery store in Virginia I'm told. And he's gone from a grocery store clerk in a store in Virginia to become the international president of an organization of 1.4 million workers.

And as I indicated earlier, my expectation is there are few organizations that would experience a greater impact from these rules than UFCW, which President Dority represents.

Why don't we begin, President Dority, asking for your presentation, your comments? And we very much appreciate your changing your schedule to be with us today.

DORITY: I'm very pleased to be here, and I thank you for inviting me. On behalf of the 1.4 million members of the United Food and Commercial Workers International Union, UFCW, I want to thank you for the opportunity to voice our concerns but, most of all, our anger and our outrage of working families across the United States over the largest single pay cut in our history. The Bush administration, through its revised overtime regulations, proposes to cut pay for more than 8 million working families, for no other reason than to feed the corporate greed of some of corporate America. These families do the extra work to get the extra pay and, as you heard from these people today, to save to get a home, so they'll have a home of their own, so that they can send their kids to college, so that they can make their rent payments and their car payments and, many times, just so they can take a little vacation or have the ability to go out and buy things for Christmas. The Bush pay cuts has no basis in law. It has no basis in economics or in addressing any of the needs of working families. The law providing for overtime has not changed.

DORITY: Workers' need for family and personal time has not changed. And the need for working families to put in extra hours to earn a little more pay to make ends meet has not changed. And another thing that has not changed is the greed that wants endless work for limited pay. The Bush administration would take us back to the 19th century while claiming to want to only modernize the regulations. I'll tell you that there's nothing modern about long hours and low pay. The Retail Clerks Union, one of the unions that made up the UFCW, was formed over 100 years ago specifically because retail store owners required around-the-clock time without pay. In fact, one of the first demands of the Retail Clerks Union was to end the practice of requiring clerks to sleep overnight at the stores. They had to sleep there just in case some customer came by or something needed to be done.

It took almost 50 years before the law was passed that limited work hours and established overtime pay, and that law has worked. Restrictions on hours created more jobs. Overtime pay is probably the single most important factor in seeing that working families moved into the middle class. Today, America is the greatest consumer nation in the world, and these regulations would help to destroy our ability to be the great consumer nation.

Today, we see a job gap. The economy goes up, but the number of jobs stays about the same. Today, we see a pay gap, where real income goes up for the top wage earners, while at the same time working-class America has their wages drop.

So the logical step would be to strengthen enforcement of overtime laws, not to eliminate them. But the Bush administration turns logic on its head. Instead of proposing to rewrite the rules in a way that takes away overtime pay eligibility for millions of workers, employers could require an increasing number of workers to work unlimited hours without overtime pay. Employers would not only pocket the money that should have gone to the workers, but employers can then steal time that belongs to the families, to communities and to workers themselves.

The Bush pay cut is an assault on working families, and it will reduce their income and take away their time with their family members.

The Bush administration would redefine executive, administrative, and professional, the limited

job categories that have been exempt from overtime, and include with them a wide range of workers, from everything from a lead produce clerk in a supermarket to a technician in a hospital to a nurse in the hospital. Those people have always been eligible for and received overtime pay when they worked over 40 hours a week. While these are skilled and valuable workers, they don't have the personal control of their work as do a supermarket executive or medical doctor. To lump skilled labor into exempt job categories is simply to deny them overtime. And it's just wrong. And it must be stopped, and it cannot be allowed to go forward.

Bush's Department of Labor claims that the intent is to make the rule simpler and easier to understand. I can tell you that I've worked with retail employers and various employers for 42 years, and I have never failed to see that they understood that you pay overtime after 40 hours. The real impact here is to make it simpler and easier for employers to declare jobs exempt from overtime. The UFCW represents workers in retail food, food processing, health care, and manufacturing. We estimate that 50,000 of our members would fall under the new definitions for the exempt categories. All of them would be very, very surprised to learn that they are now executives and that they are now professionals. But they would be totally outraged to find out that their new status actually meant that they had their pay cut.

I guess that the George W. Bush idea of fairness is cuts for everyone: Tax cuts for the wealthy and pay cuts for the workers.

Of course, the wealthy wind up with more than they deserve, and the workers get less than they need.

It's time we take a stand against this greed. It's time that we make sure that workers get paid for the hours they work and that we not allow this bill to be put into place.

And let me just close by saying that Secretary Chao's statement about the elimination of overtime pay would not benefit companies and just give them some clarity.

Well, I come from the South. And in the South, they've got an old saying. It's, "Don't spit in my eye and tell me it's raining." And that's exactly what we have here.

DORGAN: Mr. Dority, thank you very much. Is that the Deep South?

DORITY: Deep South.

DORGAN: All right. I'd not heard that. But appreciate very much you being with us and your statement. We will have some questions following the other two statements.

Mr. Ross Eisenbrey is the vice president and policy director of the Economic Policy Institute. Ross, thank you for being with us. He's had wide experience as a staff attorney in the U.S. House, our counsel here in the U.S. Senate. He's also served as a commissioner of the U.S. Occupational Safety and Health Review Commission, the OSHA Commission, and as a policy director of OSHA. He's the author of many briefing papers and articles, including "Overtime Rights in Peril: Eight Million Workers Lose Overtime," and more. He has a J.D. from the University of Michigan. Ross, Mr. Eisenbrey, thank you for being with us today.

EISENBREY: Thank you, Senator Dorgan. And I thank all of your colleagues for being here. I think this hearing is very important in a way you might not be aware of. The press I've been talking to in the last week, they think that this is over. They thought that the votes in the House

and Senate meant that these rules were not going forward. I've talked to reporters and editorial writers in New York, in Kansas and Iowa who say, "What, how can this be happening?"

And so this hearing, I think, will do a lot of good to let people know that, in fact, this issue isn't over, and the administration, despite your votes, intends to go forward.

You have my written statement. I wanted to concentrate on three main points today that I think are very important. The first is that this really is the most sweeping take-away of worker rights in our history, certainly, in the last 50 years. There's some argument about the Taft-Hartley Act in 1947, but certainly in my lifetime there's never been something like this where the Department of Labor, instead of improving worker rights, has taken a step to take those rights away.

And you have used a number that comes in part from our work, that 8 to 10 million workers could lose their overtime rights. We only looked at 78 out of 257 white-collar occupations.

The impact of this could actually be more dramatic than the numbers we've been using.

But we did look at, as I say, in detail, at 78 out of 257 occupations that the Labor Department identified as white collar. And in just those, more than 8 million workers would lose their right to overtime pay. Now, the department uses a very different number, and it's important that you understand that the number that they use is -- in a way it's a trick.

They say that 644,000 workers will lose their right to overtime pay -- will lose overtime pay -- and that's the key. They are only looking at -- they admit -- and that's too many -- 644,000 workers is a lot. That's what the department says. But if you look a little closer, they are saying that those are workers who are now receiving overtime pay who will have it taken away. For each worker who is receiving overtime there are another seven who are protected by the law.

There are 90 million workers who are covered by the Fair Labor Standards Act and protected for their overtime. All of those workers are protected in the sense that even though they're maybe not being paid for overtime work, they're not working it. Their employer isn't working them overtime because they have the right to that pay. And many employers will decide, "I won't work people overtime; I'll only work them 40 hours a week," because it would cost time-and-a-half instead of straight-time pay. And that was the original purpose of the law. That's where we get the 40-hour workweek in America. There was no 40-hour workweek before the Fair Labor Standards Act in 1938. When that law was passed, it set a standard that everybody accepts now. But once you remove that, once you've removed the requirement for time-and-a-half overtime, there's nothing to restrain employers anymore. They can work somebody 40 hours or 50 hours for the same pay at 40. Not only do they not have to pay time and a half, they don't have to pay anything more under the Fair Labor Standards Act if the employee is exempt. So if you look at this more closely...

DORGAN: Just to harp just on that point, that change would be the first change in how many years with respect to that issue?

EISENBREY: Taking away overtime rights? Since 1938.

DORGAN: So the policy for 65 years has been a requirement to pay in those circumstances. This would be the first time in over six decades that would have been changed.

EISENBREY: Yes, and over that period of time, the law has gradually improved. There have

been a number of changes in the law. It's been updated by the Department of Labor, and there have been occupations added, whole sectors -- the government sector was added.

Rights have grown over time. This is the first time that the Department of Labor will act on its own to remove rights that people have. They would say, using their methodology, that if you repealed the whole law, only 11 million people -- only those people in their snapshot who are currently receiving overtime pay -- would lose rights.

But, clearly, all 90 million people who the law covers would lose their rights. Their whole methodology here is meant to be misleading. I think a number of you have pointed out that their other major claim for this, that it's going to somehow clarify the law, is phony. This is just not so.

It's like the Clear Skies Initiative in the environmental area providing clarity. I mean, they roll back the Clean Air Act and they say it's Clear Skies. Here, they add new ambiguity that the act has never had, changing the professional requirement so that instead of a four-year college degree or an advanced degree employers can substitute any amount of work experience. There's no minimum here, but they say you can substitute work experience. As Mr. Garrity on the panel before said, you could substitute experience that you got in the military, you could substitute on-the-job training -- all of these different ways to say that you could be treated as a professional without the status or the educational training that's currently required by the rules.

So, who will be a professional under these rules? It's not clear. It's blown open so that people who have not completed community college will be considered professionals for the first time. And millions of people will be affected by that. There are a number of different ways that they add this ambiguity. Instead of the primary duty being the test of your job duties, of whether you're a bona fide executive, it will be a primary duty. You could have more than one primary duty. It won't have to be something that you do most of your time, it could be something that you do a very small part of your time. But if the employer says that is a primary duty, suddenly you could be treated as an executive in a way you never were before. As Mr. Dority said, that's going to affect grocery workers and people who have never considered themselves, and who none of us would consider, professionals or executives. The third major point I want to make is that the most sympathetic people -- and you've identified them -- are clearly the firefighters, first responders, nurses and police officers who will be affected by this. But the greatest impact of this in numbers is going to be on office workers and technicians, people like Mr. Garrity who don't get the same kind of media attention. But if you look carefully at the long list of occupations and areas of work, people broadly in areas such as tax, finance, accounting, auditing, insurance, quality control, purchasing, procurement, advertising, marketing, research, safety and health, personnel management, human resources, employee benefits, labor relations, public relations, government relations and similar activities are all going to be affected.

This is middle-class America, and these regulations, even if somehow the nurses, firefighters and police officers were removed in the final rule, the impact of this is still going to be devastating on a gigantic, broad group of Americans.

EISENBREY: I'll stop there. I'd be happy to answer any questions that you have. I do applaud you for holding this hearing and for helping the American people understand just how devastating this will be.

DORGAN: Mr. Eisenbrey, thank you very much. Thanks for your work and the research in this area. Many of us rely on the Economic Policy Institute for the studies that you do, and we

appreciate your testimony. Next, we will hear from Ellen Bravo. She is the national director of an organization, a national association of working women; it's called 9to5. She's been with that organization for many years; started the Milwaukee chapter of that organization; has written many, many articles on working women, as well as two books, "The Job/Family Challenge: Not for Women Only" and "The 9to5 Guide To Combating Sexual Harassment."

In 1995, she was appointed by Congress to the bipartisan commission on leave to study the impact of the Family Medical Leave Act. We very much appreciate, Miss Bravo, you're being with us today to testify, and why don't you proceed?

BRAVO: I'm delighted to be here. Thank you so much, and thanks for holding this hearing. 9to5 represents mostly non-management women, many of them in clerical and administrative support positions. And our members are desperate for more time with their families. So we are really concerned about this proposed regulation which we see, clearly, would strip many workers of overtime rights. Now, I'm aware that the department doesn't use that language, but we believe in plain talk. Thank you for that new expression. I love that.

You know, they call it streamlining; we call it steamrolling. And what they say is that they want to make things simpler.

Well, we think there are some things that should never be made simpler, and exploiting workers is one of them. It should never be easier to do that. And clearly that's what this is designed to do. If they really are concerned about protecting workers, why would they so adamantly oppose an amendment that simply says workers should be guaranteed their overtime rights? I think that it's clear that this is not their intention.

BRAVO: And, you know, several people have referred to the Fair Labor Standards Act. The Fair Labor Standards Act was the government's way of saying to employers, "You are working people at too low pay for too many hours. We're going to make it harder for you to do that. We're going to create a wage floor," that was the minimum wage law, "and we're going to tell you that there's a limit on how many hours you can work people. And if you insist on working them more, anyway, we're going to make you pay a premium." That was meant to be a disincentive to excessive work. There are a lot of problems with overtime today. As the nurse was pointing out, mandatory overtime is a huge problem. And violations, right now, in how people are classified is a huge problem. These regulations won't address either of those problems. What they will do is lead to an explosion of overwork by making it easier to work people without having to pay that premium. We're particularly concerned, clearly, about these changes in the white-collar categories, and particularly removal of the criterion that people must, quote, "customarily and regularly exercise discretion and independent judgment." We think all kinds of people who mainly do routine tasks and are paid very low wages are going to be told that they are now salaried and have to work overtime without any pay. I want to talk a little bit about who these faces are. The Economic Policy Institute has done such a great job giving you the numbers. You heard from these three individuals. I just want to tell you a few more Tina (ph), for example, Tina (ph) is a woman who got off welfare, got hired into a low-level administrative job in an area that might be called marketing. One day a week, she opens the office. She is struggling really hard as a single mother to have time with her child, particularly because she has to take the bus or use what we commonly refer to as the "poverty special cars," the ones that break down all the time because you can't afford a decent one. She's afraid that she's now going to be classified as

"executive," and have no say over her hours and no additional pay. Janice (ph): Janice (ph) is someone who's an administrative assistant in a medical facility. She chooses to work overtime because she needs the money to pay her bills. She's afraid that other people in her office are going to be classified as overtime, and that the work will be shifted from her to them, because they won't have to be paid, or that she, herself, will be classified. In either case, she's going to lose this money. And Denise (ph) is married to a firefighter who, like the workers you heard about, he's been on the job for 30 years. He finally makes \$65,000. He, from time to time, is required to work overtime. This is very hard in their family, but at least it brings in extra money that they've used to make college funds for their children.

Now they're afraid that because he's going to be called "highly compensated," he's going to be required to do this overtime without a cent additional. Well, how come we never hear about salary caps for CEOs, but we only hear about it for firefighters and nurses and police officers who save our lives, rather than bilk us out of our pensions? I want to take us back to the language of the Fair Labor Standards Act. Specifically, it said that it was going to take away the advantage of producing goods, quote, "under conditions detrimental to the maintenance of the minimum standards of living necessary for health and general well-being."

President Roosevelt said, "The objectives were designed to protect workers unable to protect themselves from excessively low wages and excessively long hours." That break is completely going to be destroyed in this new regulation.

What's going to happen is -- we know -- there is research on this -- we know what the picture is. People who are exempt tend much more to work extra hours than people who are not. Forty-four percent of exempt workers work more than 40 hours a week, compared to 20 percent of non-exempt workers.

This is a provision that is unfriendly to families, and it's unfriendly to job growth because instead of hiring new people, they're going to just overwork the ones that they already have.

Of course, we approve the salary adjustment for the minimum salary threshold but, you know, that's long overdue.

This is like saying we should be thankful every time there's an adjustment in the minimum wage, even though it never catches up with inflation.

We say it's too little, it's not capped for inflation, and opposing these other regs in no way means that they can't do the adjustment of the minimum salary threshold. The two things are completely separate. We also want, you know, in the frenzy to keep something we already had, I don't want us to forget the reforms that are badly needed.

So, for example, we need to limit mandatory overtime, for health care professionals, but for all workers. We need to raise the minimum wage, so that people don't need to work overtime just to pay their bills. And we need to have more flexibility for family care.

If we really want to pay attention to issues of hours, there's a lot of work that needs to be done. This isn't one of them.

I testified before the Workforce Protection Subcommittee of the House Committee on Education and the Workforce on a related bill, the so-called comp time bill.

And the chair, after, you know, putting out all these -- this is for workers, this is for families, this is for choice -- and I kept demolishing, I'd like to think, those arguments, he finally turned to me and said, "Ms. Bravo, you know, employers need to save money. They've lost money because of overseas competition." Well, they may need to save money. They don't go to the landlord and

say, "We have unfair competition, will you cut our rent?" They don't go to the light company and say, "Cut our utility bill." They can't go to the workers and say, "We're taking it out of you." It used to be that we used cost savings as an excuse to pay women less or people of color or immigrants. We passed laws. We said that's discrimination. We can't create a new category of exploitation because it would be in the interest of employers. Yes, this is an employer overtime protection act. We don't need that. We need worker protection. And I applaud you for the work that you're doing with us to try to stop this. Thanks. I'm happy to answer questions.

DORGAN: Ms. Bravo, thank you very much for your testimony. President Dority, I have indicated a couple of times this morning that we asked the secretary of labor to be with us today. We would have made her our first witness, so that we could understand their perspective about this. But let me, if I might, just ask you a question anticipating what her perspective is. I suspect she would say, "Are you kidding me? This is testimony that has nothing to do with what we're attempting to do in the Department of Labor. We have a 65-year-old rule down there that we want to modernize a bit. We're not going to affect anybody's overtime. That's not what this is about. It's not about helping business." My guess is that, in probably a fancier way than that, that's the message she would offer us. What's your response to that?

DORITY: Well, I think what you have to do is look at the people who testified today. The fact of the matter is that there's 8 million people out there, according to studies -- and I don't know how many there are, but I know that there's a lot of people. And I know there's a lot of people that every week or every month have to rely on overtime to make it. And I also know that this whole mentality of redistributing the wealth of this nation away from the people that have too little to the people that already have enough is the greatest recipe that I've ever seen for destroying what's great about America. America's working families are what makes America great. And, you know, we face these requests almost at every bargaining session to do away with things that are going to facilitate management, make it better for them to operate, make it easier for them to operate. But basically cost is shifting. You're shifting the overtime pay away from workers so that it's going to be distributed to less and less people, because as the employers have the opportunity to put more work on someone and to reclassify them, then that means that they instead of having -- if it's a small employer and they have six employees, then in all likelihood, they'll have five. If it's a large employer and they have 100,000 employees, in all likelihood, they're going to have 92,000 or 90,000, or whatever. I mean that's what this is all about. And I think it has a danger for the whole prospects of what's made America great, and that's the fact that we have the biggest middle class in the world. And that's the reason we're able to do the things we're able to do. And those people that are doing this are very shortsighted, in my opinion.

DORGAN: Mr. Dority, were the labor organizations, including yours, consulted by the Department of Labor as it began taking a look at modifying or changing the overtime rules

DORITY: I don't think so. We may have had somebody that was consulted, but it certainly wasn't me, and it wasn't our office. We were consulted on ergonomics before they took that away, and that didn't do any good, either. So, our contact hasn't been on a weekly basis.

DORGAN: But you represent 1.4 million American workers. Is that correct?

DORITY: Well, it's not quite correct. We have 1.4 million workers in our union. We have over 1 million in the United States, but we have about 300,000 in Canada.

DORGAN: So 1 million workers, roughly, in the United States. I assume you would expect if a labor department is going to change regulations, alter regulations based on overtime issues, that you would have some opportunity to provide input before those recommendations are made. Would you not expect that?

DORITY: I did get invited to the Christmas party today. Maybe they were going to talk to me about it then. (LAUGHTER)

DORGAN: Well, except the problem with that is the regulations were already out there, as you know, I don't think that's why you were invited to a Christmas party, President Dority, with all due respect.

But I make this point, that regulations that are proposed to be changed, that will have an impact on millions of people, or potentially have an impact on millions of people, are best addressed by consultation and working with people and having perhaps some internal hearings at the Department of Labor and others to find out, "All right, what's the consequence of adjusting it this way or that way?" And it appears to me this just emerged with virtually no consultation. And Mr. Eisenbrey tells us, at least as he reads it, what the consequences will be, and the consequences are substantial.

Ms. Bravo, my guess is the impact especially on women would be very substantial because women in this country in many circumstances are forced to work jobs with a lot of overtime.

DORGAN: So, as is often the case with policies that we deal with here, the significant impact -- not exclusive -- but a significant impact is on working women, in some cases, working women who are trying to raise a family alone. Is that the case in this circumstance?

BRAVO: Absolutely. And I think it's going to have two kinds of impact. One will be people simply forced to work more hours without pay, more time away from their family and without any extra money. And the other are going to be people who are forced to get a second job because they'll be unable to work overtime because the overtime will be shifted to the people who get reclassified. You know, people often wonder where is the biggest gain that women have made in the last several decades. Guess what it is? Moonlighting. We're now almost half of all moonlighters and were 70 percent of the new entrants into multiple jobholders. So this is going to lead to an increase in that which is, you know, really hard to having to struggle to manage a second job and working shifts.

And what it means is, you know, lots of our members say, "I feel like at work my employer thinks I'm a bad worker, because I have a sick kid and I have to stay home. At school, they say I'm a bad parent, because I can't help my kids with their homework, because I'm working 1 to 8 and, you know, just don't get home before they're asleep."

People are squeezed. They don't need extra pressure; they need extra protection. This is just the

opposite of what they need.

DORGAN: I'm going to ask Mr. Eisenbrey a question, but I did want to point out -- I should have done this at the start of the hearing -- that here in the United States Senate, Senator Tom Harkin has led the fight on the floor of the Senate on this issue. And he's been relentless on the floor of the Senate making the case.

And in fact, because he was demanding and insisting and would not retreat to add an amendment to an appropriations bill on the floor of the Senate, because of that, they delayed the appropriations bill over and over and over again because they didn't know whether they had the votes to beat him.

They finally brought the appropriations bill to the floor. He offered his amendment, and his amendment passed. And the amendment is the amendment that would reverse what the Department of Labor is trying to do, and his amendment would then provide protection that has existed for over six decades for overtime pay for workers. And so Senator Harkin has led the charge here. And what has happened is, his amendment was successful in the Senate, so we go to conference with an amendment from the Senate side that essentially prohibits the Department of Labor from proceeding with these regulations that would jeopardize overtime pay.

The House of Representatives does the same thing. It took them two votes. The first vote, they didn't quite make it. The second vote they made it, and perhaps my colleagues will tell me if it's a wide margin. And now we come to the conference on something called an omnibus bill. Despite the fact that both the Senate and the House have voted on this, the majority party and the White House are saying, "We're going to ignore the fact that we have a vote in the Congress, and we're going to strip that provision out." Now, why are they doing that? Because the Bush administration is threatening to veto an omnibus bill if it doesn't include exactly what they want. They want to strip out things that we've already passed -- and I can mention three or four of them -- and add things that we've never considered. And that's what's going on in this omnibus bill.

The most significant piece in this omnibus bill that would impact workers in this country is this: The failure to prohibit the Department of Labor from implementing these rules could mean millions and millions and millions of Americans will have their paychecks reduced and be told, after 65 years, "We're not going to pay you overtime anymore." So is this important? You bet your life it is. Is it important to you if you wear a dark blue suit and make lots of money and don't get paid for overtime, you just get paid \$150 million a year for your job? We've read about that recently. No, that's not important to those folks, because they don't care about overtime. But for a lot of folks, it's critically important to their daily living and providing for their families. You know, there are so many people that know about second shifts and second jobs -- we've heard testimony -- and second hand. I mean, they're the people who work really hard every day just to try to make a go of it, make things work for their family, be able to send their kids to school, buy clothes, buy a car, make the mortgage payment. They're the ones that get hurt with these kinds of policies. And so, I mean, the testimony we've had today is really important to underscore why this is not just some debate, it's not just politics. We're not having this hearing because we disagree politically. We're having this hearing because we want to win this issue. Why do we want to win? Because if we lose this issue, 8 to 10 million or more Americans are going to find out that their pay is going to be cut, and in some cases significantly. And these are hardworking families, and they don't deserve it. Mr. Eisenbrey, when I mentioned the term "8 million," the Labor Department will say, "Well, Mr. Eisenbrey and others have done these

evaluations and they've used 8 million, they throw it around." "It's reckless," they say, "It's nothing like 8 million people." You know, they've tried to discredit the research. Tell me about the research. I mean, how do you respond to them when they say, "Mr. Eisenbrey doesn't know what he's talking about; this is alarmist talk, we're not talking about millions of people"?

EISENBREY: Well, we actually got a team of people who included former wage and hour investigators, people who know the current law intimately and some of whom are actually management consultants now. They have no axe to grind in this at all, because, you know, they make their business informing employers about the law. And I trust them as being objective. We got a team of lawyers and human resources specialists to look at each of the different occupations and to study how the law had been interpreted and how the changes would change that. And what we learned was that the department had been very careful and very thorough, that they pretty much had gone through the case law. And where a case had turned on something like what's called the staff versus production dichotomy, they removed it from the new regulations, so that when those cases -- if that same case came back now, it would come out the other way. Instead of protecting the employee's right to overtime, the employee would lose the right to overtime.

DORGAN: You went back and used people who were experts in wage and hour evaluations. And your evaluation study is not just some economist who's had no acquaintance with these issues, who now digs into them...

EISENBREY: No, our economists' job was to translate those cases and looking at the occupations and saying, if under the old law, as the department -- we have, and I'd be happy to leave it with you, the department actually has done, in 1999, an estimate of how many people were covered and how many people were exempt. And they went through, occupation by occupation, and said, for example, for reporters, 30 percent of reporters under the current law are exempt as creative professionals. And then we looked with this team of experts: How would it change; you know, what's the difference? Well, that was pretty easy, because right on the face of the proposal it says what they're going to do to journalists and editorial writers and others. And we used a fairly conservative estimate that 70 percent now will be exempt, instead of 30. The economists' job was to say how many people is that. And, you know, you can look in our paper, I don't remember offhand how many thousands of journalists will lose their right to overtime pay. But the same was true for social workers. You know, there is a lot of case law that you could look at.

(UNKNOWN): (OFF-MIKE)

EISENBREY: Well, that was more a confirmation. Afterward, we looked at what employers themselves were saying. And they filed a lot of comments with the Department of Labor, which none of you has seen, and almost no one in the world has seen, because they didn't put them up on the Internet where they could be read. You have to go in person to a room at the Department of Labor where there are binders that are not indexed and flip through them and try to find out what employers are saying. They listed hundreds of occupations that they are predicting -- and

they know pretty well -- will be exempt under the new proposal.

I think that there are some things that are indisputable: Removing the requirement for independent judgment and discretion is the single most important change that they've made.

DORGAN: Well, Mr. Eisenbrey, your work has been very helpful to us as we've fought through this issue. I'm going to recognize my two colleagues in just a moment, but first I want to say that Senator Harkin has submitted testimony, and we will include that as part of the record.

Although he could not be with us today, he wanted to, but he was already committed and was unable to be here. As is typical of Senator Harkin, he doesn't mince words. I'll just read the last two paragraphs: "We're not talking about spare change here. We're talking about taking away some 25 percent of the income of many American workers. It is essential family income that helps pay the mortgage, feed the kids, pay for college and save for retirement."

And he says, "Congress did the right thing in voting to block this new rule. Now that Congress' vote and voice have been nullified, we're hearing the Department of Labor could try to issue this new rule in the coming weeks. But I am here to serve notice that I will not give up, nor will others who have fought for this.

"The American people will not allow us to drop this issue. I pledge to them that I will offer the overtime amendment to every piece of legislation until we succeed."

Of course this issue is not yet complete, even in this Congress, because the omnibus bill has to first be dealt with.

Again, I think that Senator Harkin's leadership here is extraordinary, and I know that he will not quit. I want to also say that Linda Foley is with us, the president of the Newspaper Guild, which is an affiliate of the Communication Workers of America. And although she is not testifying, we appreciate her being with us. Do you want to stand, Linda? Thank you very much for joining us today. We appreciate your presence. Let me call on Congressman Tierney.

TIERNEY: Thank you, Mr. Chairman. Ms. Bravo, you, in your written testimony made a point that I thought was worth noting about the propensity to change the highly compensated employees' terminologies, and the prospect of that might lead to the shifting of work from people to that new category, in order to give them the work that otherwise would have gone to overtime, and the failure, at this new level of \$65,000, to index it to inflation.

Would you expand on that just a bit?

BRAVO: Yes, this is -- both the minimum salary threshold and the salary cap are not indexed for inflation. So more and more low-wage workers will slip out of the minimum, and more and more workers will be classified as highly compensated as the years go by, because there is no index. This isn't the first time that they've made an adjustment, by the way, at the low end. But it is the first time that they've used that to put a cap at the high end or to take away overtime protection from so many workers. So we're very alarmed at slipping that in as if we're not going to notice.

TIERNEY: Thank you. Mr. Eisenbrey, in your testimony you talk about the analysis of the number of workers that will lose their rights to overtime pay and the administration's claim that 1.3 million low-income workers would benefit from the rules change, and you say that that's false.

TIERNEY: And you wanted to say, and the administration knows -- the department knows that it's false. How is it that they know and that they continue to make these assertions?

EISENBREY: Well, they've identified what it is that they're using the current population survey, outgoing rotation files, as the source of their data. And we have looked at that same database, and we found that there are 1.3 million workers who are working overtime and not being paid for it, who make less than \$22,100 a year, but 600,000 of them are blue-collar workers who are already entitled to overtime pay, they're just being apparently cheated out of it by their employers.

And these rules will have no affect on them whatsoever.

We've pointed this out for months to the department. They've never responded. They've never said, no, you're wrong, there's this or that. There's no question about this. They have used these numbers in a way that they know is not right.

And if you look even further into it, you see that even among the remaining 700,000, they have no basis for the claim. It's actually -- use your common sense, it's ludicrous to think that people making \$9,000 or \$10,000 a year are bona fide executives.

These are people who are at the bottom end of our economic scale; they're not people who are, you know, making executive decisions. Yet, the department's numbers would include all of those -- you know, these very low-wage workers as somehow being helped by the proposed rule.

It just isn't true.

TIERNEY: Thank you. Mr. Dority, the same people at your USCW whose jobs are going to be affected by this administration proposal, they're going to lose pay for the hours that they work, can you tell me, have the companies associated with this been offering any additional benefits to them lately, in terms of in increased contributions to their health insurance premiums, or their retirement? Or is this, as we may suspect, just another add-on to the things that have been going against the workers lately?

DORITY: Well, quite to the contrary, we're finding more and more difficulty -- and we've been having difficulty for years in negotiating, particularly for health care. And we've taken -- in many cases taken money that was available for salary increases to keep up with the insurance.

Now, the employers are in a full-frontal attack on that. And as one of the speakers said, we've been -- I guess it was Representative Sanchez said that we've been on strike in southern California for 67 days over the companies' attempt to totally undermine the whole health care system as we know it.

And while we recognize that health care is a growing problem in this country, because there's so many people that don't have, and their costs get shift to the people that do have it. And we've got like an inverted pyramid. We've got a situation where more and more pressure is left on those few companies that now provide insurance. And it's getting worse every day.

So this is a big problem with corporate America. And we understand that they don't like the idea of writing a blank check for health care cost increases, but we also recognize that one of the most important benefits that our members have is health care. And if the employers are trying to strip that away, we had a strike in St. Louis, 10,000 people, the same issue was over health care.

We had a strike in West Virginia, Kentucky and Ohio, same issues -- that was for 4,000 people --

over health care. So employers are not looking for anything that's going to increase the cost. And they're certainly not pushing the Department of Labor and the Republican administration who's very friendly to them now to make these changes without having in mind that now is the time to make progress in terms of stripping away worker rights. And this is all an interwoven thing that's going through corporate America now, and it's brought on by the fact that it's more important now to take away than it is to provide a decent standard of living for workers. So it's a tough situation.

TIERNEY: Thank you. I want to thank all of the members of this panel, as well as the last panel. And Senator Dorgan, I want to thank you very much for organizing this particular hearing. I think that Mr. Eisenbrey was absolutely correct in saying that this is important if, for no other reason, to draw some attention to this issue which, obviously, the administration and the department seem to want to delay into next year and then try to slide under the radar on this. The vote in the Senate was 54-45. And I think you all made it clear, you know in Senator Harkin, Senator Kennedy's amendment that there'll be no money spent to implement these new regulations that were going to put people out of their protection for overtime.

That was followed on October 2nd in the House by a 221-203 vote that said we should go to conference and accept the language in the Senate, so that that protection remain in place. As has been the habit of this administration and the majority here, they totally disregard minority rights in this institution and then they disregard the American public's majority, expressed through their representatives of what they want to happen, time and time again, whether it's a three-hour vote on Medicare, where they eviscerate protections that seniors have. You can go right on to every issue. And we had recently a debate where we talked about the number of times in the middle of the night that they overextended the voting period to allow two votes to change. They twist members of their own party to try and come around with them; some pretty horrendous allegations of what was offered in return for some of those switches. And now we see a case where it's a direct affront to a vote by the majority in both the House and the Senate, where representatives of the American people want to provide for these protections and this administration threatens to veto the bill and then causes the extension of this all the way into January, hoping it will go away. Senator, I'm glad that you're making sure that we don't go away on this issue. I thank you and the Democratic Policy Committee for its hard work and thank all the witnesses for theirs.

DORGAN: Congressman Tierney, thank you for being with us today.

This issue will not go away, and we now have to deal with an omnibus appropriations bill, largely because the majority party didn't do its work in this year. I mean, they should have moved these appropriations bills on time; did not do so. And the reason they didn't do so is they didn't want to have votes on things like overtime.

When Senator Harkin and Kennedy wanted to offer the overtime amendment, they just decided, "Well, then we won't have the appropriations bill on the floor, we'll take it off the floor." And so as a result of that, on a number of issues, we didn't finish our appropriations bills.

Now we have this omnibus, and the White House is attempting to have its way on the omnibus by threatening vetoes for four or five issues; one, the broadcast ownership limits, for example. Congress has expressed itself, both the House and the Senate. It's one thing to disregard a

minority; it's quite another thing to disregard the majority. This, after all, is a democracy. But let me call on my colleague, Congressman Strickland.

STRICKLAND: Thank you, Senator Dorgan. And I want to thank the witnesses as well. You know, this falls right in the lap of George W. Bush. This is his issue. The majority in both the House and the Senate expressed their opinion. The president threatened a veto. This is an attempt on the part of the leadership to protect the president from being embarrassed by casting a veto. I say let him cast the veto. Let the American people know that he would veto this omnibus bill, threaten to shut down this government, simply because he wants to cut the pay of working Americans by some 25 percent. We can win that argument. My brothers were construction workers. You know, they made a lot of money when they worked overtime. I can only imagine what a non-union construction worker who wasn't protected by a union contract would endure as a construction worker under these rules. It's just unimaginable to think about. Now, only one question, Mr. Eisenbrey. I need your help. I think all of us need your help or the help of your research. I saw the president interviewed by Tim Russert a few weeks ago. And the president actually said that more people would benefit from this than the number of people who may suffer any kind of economic loss. And Tim Russert said to him, "Mr. President, how do you explain the fact that those who oppose these changes say that, up to 8 million people would be negatively effected?" And he said, "They just don't understand." And Mr. Russert said, "Well, what would you advice them to do?" He said, "I advise them to sit down with Secretary Chao and let her explain to them why they're wrong." Well, the secretary's not here, so maybe she could explain to us. I doubt if she's going to do that. But I was sitting here, thinking, it's difficult not to personalize this issue. Mr. Garrity, Mr. Miller, my constituents, they're real people, real problems, real families. It's difficult for me not to personalize this and start asking about the motives of those who would promote this. It really is: Are they greedy? Are they arrogant? Are they bad people? I think we need to take it to them, when they are attacking the kind of innocent, hardworking, struggling patriotic American working people. And I think that that's what this issue comes down to, whether or not selfish, greedy, and I'll use the word "bad" -- I won't use the word "evil," because I think that has sort of religious connotations -- but bad people are pushing an agenda that will have real affects on innocent Americans. And the only way that those innocent Americans can be protected is if those of us -- these wonderful senators -- oh, I love the rules of the Senate, Senator Dorgan -- I just love the rules of the Senate, because here in the Senate at least the minority does have the ability to exercise a degree of power that those of us in the House simply do not have access to. So I want to thank you, Senator. I want to thank you for all that you do, not just this. I've watched you, admired you. You are truly a stand-up person for the people that need your representation.

BRAVO: Representative Strickland, could I add one word to your list: beholden. I think this administration is beholden to people who they made promises to -- "We'll give you whatever you need. This is what you want. We'll push it through whatever way we have to."

STRICKLAND: Thank you. That's a good word -- says a lot. Thank you. Thank you, Senator.

DORGAN: Congressman Strickland, thank you very much.

Some long while ago -- perhaps six, eight years ago -- I read in The Washington Post one morning a description of one of the debates that was going on in Congress. And someone from the other party dismissed it and they said, "Well, this whole thing has just degenerated to a debate about principle." (LAUGHTER) And I thought, "Well, I sure hope so, because that's why I ran for Congress. It's about principle."

And, you know, some will perhaps view the U.S. Congress and a hearing like this, and they'll say, "Well, they're just trying to beat up on the president because they're of different political persuasions; they come from a different party."

But if we don't wage this fight, somebody's going to open a paycheck at some point in the months ahead, and they're going to discover that their paycheck is much less than they expected, and they're going to ask, "Why? What happened here?"

And somebody's going to have to tell them, "Well, there was a rule change in Washington -- the Department of Labor. Didn't you hear about it? That's what happened. Weren't you there? Didn't you testify? Didn't your member of Congress or the Senate deal with this?"

They're going to wonder what happened. And so somebody's going to say, "Well, for the first time in 65 years, you're not going to get paid overtime, you and people who work in jobs like you. They've reclassified you. You've been reclassified."

Well, they're going to say, "I'm charmed to hear that, but, you know, I really need overtime. The fact is, I was expecting after six decades not to have somebody pull the rug out from under me."

If I work overtime, I expect to get paid overtime, because that's the contract, the social contract we've had in this country. And inch by inch, we've got people trying to just pull that rug out.

And, again, you know, every day we read in the papers, regrettably, about I think an unprecedented level of greed in this country.

I chaired the hearings here in the Senate dealing with Enron, and there was wholesale greed and wholesale cheating and stealing going on, as you know. It's all under criminal investigation now.

And, you know, it's about big interests and big money. And we have, it seems to me, a circumstance where the economic engine of this country, in my judgment, is working families.

They're kind of the pistons that make all this go.

We have a difference of opinion about how the economy works. Some think if you just pour it all in at the top, somehow it all filters down and the engine works. I happen to think the economic engine in this country is working families. They're the pistons that make this engine hum.

And it seems to me, to try to undo the basic financial stability and the financial guarantees that we've worked out for many decades in this country about how we treat workers, to try to undo that by regulation in an agency that says, "Well, I'm just doing a cosmetic little change, it won't have much effect at all," it really disserves the interests of working families in this country.

And there are many more issues that we need to deal with, the trade policies that undermine our workers and so on.

If I might just make one comment off the subject. My colleague from Ohio knows that they used to make Huffy bicycles in Ohio; they don't any more, because those Americans who made them made \$11 an hour and the company that employed them said, "That's way too much money, \$11 an hour. We can get Huffy bicycles made for 33 cents an hour in China and work people seven days a week and 15 hours a day and not pay them overtime."

And so they took the little decal of the American flag off the front of that Huffy bicycle and replaced it with a globe, fired the American workers. They now make it for 33 cents an hour.

All these things undermine the interests of American workers. And in my judgment undermine

this economy and future economic growth and opportunity for the American people. This issue -- this issue is an important symbol of that, but for millions of American families it's more than a symbol. If we quit and if we don't fight, American working families lose on this issue. That's why we're holding a hearing today. It's why, as we proceed into January with respect to this omnibus appropriations bill, Senator Harkin, Senator Kennedy, myself and many others will continue that fight here in the United States Senate. I want to thank the people who have come today to testify and others who have joined us. And we will have more to say on this subject, both in the U.S. House and the U.S. Senate, in the weeks ahead. This hearing's adjourned.

(UNKNOWN): And at the polls.

DORGAN: This hearing's adjourned. Thank you.

(APPLAUSE)

END