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Senate

The Senate met at 3 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Lord, our hearts are filled with an attitude of gratitude for the gifts of life, intellect, emotion, will, strength, fortitude, and courage. We are privileged to live in this free land You have so richly blessed.

You have created each of us to know, love, and serve You. Thanksgiving is the memory of our hearts. You have shown us that gratitude is the parent of all other virtues. Without gratitude our lives miss the greatness You intended, and remain proud, self-centered, and limited. Thanksgiving is the thermostat of our souls opening us to the inflow of Your Spirit and the realization of even greater blessings.

But so often we need to thank You for the problems that make us more dependent on You for Your guidance and strength. When we have turned to You in the past, You have given us the leadership skills we needed. Thank You, Lord, for taking us where we are with all our human weaknesses, and using us for Your glory. May we always be distinguished by the immensity of our gratitude for the way You pour out Your wisdom and vision when with humility we call out to You for help. We are profoundly grateful, in the name of our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. For the information of all Senators, today the Senate will immediately resume consideration of S. 4, the Family Friendly Workplace Act. By previous consent, Senator KENNEDY or his designee will be recognized for 30 minutes of debate to be followed by Senator ASHCROFT for up to 30 minutes. At the expiration of that time, the Senate will proceed to a vote on cloture on the substitute amendment to S. 4. Senators can therefore expect that cloture vote at approximately 4 p.m. today. I guess it will probably be shortly after 4. Senators are also reminded that they have until 3:30 this afternoon in order to file second-degree amendments to the substitute to S. 4. It is my hope that cloture will be invoked and the Senate can then proceed to conclude action on this very important measure. If that is the case, Senators should be prepared to continue the debate and vote on amendments to S. 4.

In addition, as previously announced, it is my hope that we can conclude work on the budget conference report—and I understand the conferees have met today and should be able to complete the conference, if not this afternoon, sometime tomorrow—and the supplemental appropriations conference report as soon as those items are available for consideration.

Now, I understand that some of my colleagues are concerned about the supplemental appropriations conference report and are now talking about extensive debate. I do want to say that I have just been advised that the conferees have been working and they feel they have made real good progress and, as a matter of fact, they could conclude action on the conference report even within the hour now. Knowing how conferences work, sometimes when you get right to the end, that last 10 percent or 2 percent causes a problem and they may still encounter further delays. But the appropriators and the conferees are meeting, they are working, and I believe they are making progress. Hopefully, they will get to some conclusion this afternoon on the conference report that we could vote on.

I understand the frustration of Members on all sides. It is very important language here. The administration needs to understand that Pennsylvania Avenue is a two-way street. It doesn't just come from the Capitol down to the White House, where we send down billions of the taxpayers' dollars; we have to get a little cooperation. We feel very strongly about the importance of a law enforcement commission to take a look at the overall application of law enforcement in America. We feel very strongly about the census issue. How do we make sure that it's fair and thorough and complete and accurate? We may come to an agreement on how that can be done, either in terms of actual count or some modification, but not without consultation and not without the Congress being involved in a constitutional issue. We also remind people that the only way—the only way—the disaster funds will stop flowing from FEMA or SBA—and the money is flowing right now—is if we have some sort of fun and games at the end of the fiscal year with a Government shutdown.

I think we can work these matters out. We should. But everybody needs to understand these are important issues. This is not abnormal. I have been through supplemental bills probably 24 times or more in my career in Congress. I have been through disasters. There is nothing new here. There is nothing out of order here. We need to keep working together, and if we heighten the rhetoric and the partisanship, it doesn't help.

I tried my very best to make sure that the Senate in fact is a family friendly workplace. I say to the Senator from Massachusetts, we have flexibility in our schedules and we have tried not to work into the wee hours of the night. In fact, I think only one night this year have we gone beyond 8:30. I think that is wise, because over the years I have noticed that any time the Congress, House or Senate, stays in

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

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after about 8 o'clock, they start making mistakes. And some of us still have wives that we like to see or spouses that we like to see or children that we enjoy being with. So the threat of staying up all night tonight to talk about a bill that in fact we hope we can come to agreement on shortly rings hollow to me. Let's just do our work and keep calm and we can get this thing solved.

MESSAGES FROM THE HOUSE

At 3:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 84) establishing the congressional budget for the United States Government for fiscal year 1998 and setting forth appropriate budgetary levels for fiscal years 1999, 2000, 2001, and 2002, and agrees to the conferences asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. KASICH, Mr. HOBSON, and Mr. SPRATT as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 79. An act to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe.

H.R. 908. An act to establish a Commission on Structural Alternatives for the Federal Courts of Appeals.

H.R. 1019. An act to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys.

H.R. 1020. An act to adjust the boundary of the White River National Forest in the State of Colorado to include all National Forest System lands within Summit County, Colorado, which are currently part of the Dillon Ranger District of the Arapaho National Forest.

H.R. 1420. An act to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

H.R. 1439. An act to facilitate the sale of certain land in Tahoe National Forest, in the State of California to Placer County, California.

H.J. Res. 75. Joint Resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope.

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent and referred as indicated:

H.R. 79. An act to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe; to the Committee on Indian Affairs.

H.R. 1019. An act to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys; to the Committee on Energy and Natural Resources.

H.R. 1020. An act to adjust the boundary of the White River National Forest in the State of Colorado to include all National Forest System lands within Summit County, Colorado, which are currently part of the Dillon Ranger District of the Arapaho National Forest; to the Committee on Energy and Natural Resources.

H.R. 1439. An act to facilitate the sale of certain land in Tahoe National Forest, in the State of California to Placer County, California; to the Committee on Energy and Natural Resources.

H.J. Res. 75. Joint resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope; to the Committee on Veterans' Affairs.

AMENDMENTS SUBMITTED

THE FAMILY FRIENDLY WORKPLACE ACT

KENNEDY AMENDMENT NO. 368

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to amendment No. 256 proposed by Mr. GRASSLEY to the bill (S. 4) to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes; as follows:

Beginning on page 9, strike line 19 and all that follows through page 10, line 3 and insert the following:

''(9)(A) An employee shall be permitted by an employer to use any compensatory time off provided under paragraph (2)—

''(i) for any reason that qualifies for leave under—

''(I) section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)), irrespective of whether the employer is covered, or the employee is eligible, under such Act; or

''(II) an applicable State law that provides greater family or medical leave rights than does the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.);

''(ii) for any reason after providing notice to the employer not later than 2 weeks prior to the date on which the compensatory time off is to be used, except that an employee may not be permitted to use compensatory time off under this clause if the use off the compensatory time of will cause substantial and grievous injury to the operations of the employer; or

''(iii) for any reason after providing notice to the employer later than 2 weeks prior to the date on which the compensatory time off is to be used, except that an employee may not be permitted to use compensatory time off under this clause if the use of the compensatory time off will unduly disrupt the operations of the employer.

KENNEDY AMENDMENT NO. 369

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to amendment No. 265 proposed by Mr. GORTON to the bill, S. 4, supra; as follows:

On page 7, strike line 13 and insert the following:

''(B) It shall be an unlawful act of discrimination, within the meaning of section 15(a)(3), for an employer—

''(i) to discharge or in any other manner penalize, discriminate against, or interfere with, any employee because—

''(I) the employee may refuse or has refused to request or accept compensatory time off in lieu of monetary overtime compensation;

''(II) the employee may request to use or has used compensatory time off in lieu of monetary overtime compensation; or

''(III) the employee has requested the use of compensatory time off at a specific time of the employee's choice;

''(ii) to request, directly or indirectly, that an employee accept compensatory time off in lieu of monetary overtime compensation;

''(iii) to require an employee to request compensatory time off in lieu of monetary overtime compensation as a condition of employment or as a condition of employment rights or benefits;

''(iv) to qualify the availability of work for which monetary overtime compensation is required upon the request of an employee for, or acceptance of, compensatory time off in lieu of monetary overtime compensation; or

''(v) to deny an employee the right to use, or coerce an employee to use, earned compensatory time off in violation of this subsection.

''(C) An agreement or understanding that is entered''.

SPECTER AMENDMENT NO. 370

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill, S. 4, supra; as follows:

Beginning on page 6, strike line 20 and all that follows through page 8, line 23 and insert the following:

''(6)(A) An employer that provides compensatory time off under paragraph (2) to an employee shall not—

''(i) directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of—

''(I) interfering with the rights of the employee under this subsection to request or not request compensatory time off in lieu of payment of monetary overtime compensation for overtime hours;

''(II) interfering with the rights of the employee to use accrued compensatory time off in accordance with paragraph (9); or

''(III) requiring the employee to use the compensatory time off; or

''(ii)(I) request, directly or indirectly, that an employee accept compensatory time off in lieu of payment of monetary overtime compensation; or

''(II) discriminate by qualifying the availability of work for which overtime compensation is required on the request of an employee for, or the acceptance by an employee of, compensatory time off in lieu of payment of monetary overtime compensation.

''(B) An agreement or understanding that is entered into by an employee and employer under paragraph (3)(A)(ii) shall permit the employee to elect, for an applicable workweek—

''(i) the payment of monetary overtime compensation for the workweek; or

''(ii) the accrual of compensatory time off in lieu of the payment of monetary overtime compensation for the workweek.

''(C) In this paragraph, the term 'intimidate, threaten, or coerce' has the meaning given the term in section 13A(d)(2).''.

(2) REMEDIES AND SANCTIONS.—

(A) IN GENERAL.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended by adding at the end the following:

''(f)(1) If an employee demonstrates that an employer has engaged in an employment practice that violates either or both of clauses (i) and (ii) of section 7(r)(6)(A), and that the employee has been harmed by the practice, the employer shall be liable to the employee in an amount equal to—

''(A) such legal or equitable relief as may be appropriate to effectuate the purposes of section 7(r)(6)(A), including employment, reinstatement, promotion, and the payment of wages lost; and

''(B) 3 times the legal or equitable monetary relief provided in accordance with subparagraph (A), as liquidated damages.

''(2) The employer shall be subject to such liability in addition to any other remedy available for such violation under this section (other than the first sentence of subsection (b)) or section 17, including a criminal penalty under subsection (a) and a civil penalty under subsection (e).''.

(B) CONFORMING AMENDMENTS.—Section 16 of such Act is amended—

(i) in subsection (a)—

(I) by striking ''(a) Any'' and inserting ''(a)(1) Except as provided in paragraph (2), any'';

(II) in paragraph (1) (as designated in subclause (I)), by striking ''subsection'' the first place it appears and inserting ''paragraph''; and

(III) by adding at the end the following:

''(2) Any person who willfully engages in an employment practice that violates either or both of clauses (i) and (ii) of section 7(r)(6)(A) shall on conviction be subject to a fine of not more than $25,000, or to imprisonment for not more than 5 years, or both. No person shall be imprisoned under this paragraph except for an offense committed after the conviction of such person for a prior offense under this subsection.'';

(ii) in subsection (b)—

(I) in the first sentence, by inserting ''(other than section 7(r)(6)(A))'' after ''of this Act'';

(II) in the third sentence, by striking ''preceding sentences'' and inserting ''preceding sentences, or in subsection (f) or (g),''; and

(III) in the last sentence, by inserting before the period the following: ''or section 7(r)(6)(A)''; and

(iii) in subsection (c)—

(I) in the first sentence—

(aa) by inserting after ''7 of this Act'' the following: '', or of the appropriate legal or monetary equitable relief owing to any employee or employees under section 7(r)(6)(A) or section 13A''; and

(bb) by striking ''wages or unpaid overtime compensation and an additional equal amount as'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and the appropriate amount (as determined under subsection (b), (f), or (g)) of'';

(II) in the second sentence, by striking ''wages or overtime compensation and an equal amount as'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and the appropriate amount of''; and

(III) in the third sentence—

(aa) by striking ''first sentence of such subsection'' and inserting ''third sentence of such subsection''; and

(bb) by striking ''wages or unpaid overtime compensation under sections 6 and 7 or'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, or''.

(C) RULE.—Notwithstanding subsection (b)(3), the amendments made by subsection (b)(3) to section 16(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(c)) shall not take effect.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 4, 1997, at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON AVIATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Aviation Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on June 4, 1997, at 2 p.m., on bilateral aviation relations with the United Kingdom.

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

ADDITIONAL STATEMENTS

EIGHTH ANNIVERSARY OF TIANANMEN SQUARE MASSACRE

• Mr. FEINGOLD. Mr. President, I rise today to join in marking the eighth anniversary of the Tiananmen Square Massacre, a tragic day when a still unknown number of Chinese—some say hundreds, others thousands—died at the hands of the People's Liberation Army.

This anniversary is significant because it is the first since the death of China's paramount leader Deng Xiaoping, the man who orchestrated the bloody crackdown against the prodemocracy movement. Unfortunately, even with Deng out of the picture, the Chinese Communist Party remains unwilling to re-examine the events of June 4, 1989. Indeed, China's leaders would like nothing more than to have Tiananmen fade from the world's memory.

But Tiananmen is still very much a part of the present. As all of us are aware, Wang Dan, a student leader of Tiananmen, was sent back to prison last October for continuing to advocate democratic reform. According to Amnesty International, 303 people remain in prison for their role in the 1989 demonstrations. Certainly for these people and their families, Tiananmen remains a part of daily life.

Today, Tiananmen is still very much on the minds of Hong Kong's people. The 1989 prodemocracy demonstrations created an outpouring of support from the British colony. Hong Kong residents donated hundreds of tents and sleeping bags to the students occupying Tiananmen Square. Thousands are expected to gather this evening in Hong Kong's Victoria Park for a candlelight vigil. Many are worried that public observance of Tiananmen will be banned once Hong Kong reverts to Chinese rule this summer. After the transfer of Hong Kong is completed, commemoration of June 4 will become the ultimate test of whether China will allow Hong Kong to maintain its cherished freedoms.

For those of us who are concerned about human rights in China, June 4 is still a powerful reminder that the Chinese Government has not changed. I was appalled to hear that, during his visit to Washington last December, China's Defense Minister Chi Haotian said that ''not a single person lost their life in Tiananmen Square.'' That was an insult to the memory of those who died on the streets of Beijing that night.

Mr. President, yesterday Senator HELMS and I submitted a resolution of disapproval of the President's decision to renew most-favored-nation trade privileges to China. I feel strongly that the decision in 1994 to delink human rights and MFN was a mistake. Disconnecting the two has helped make China's leaders feel secure enough to renew their crackdown on the democracy movement and commit further human rights atrocities in Tibet. I believe that denying MFN is the best way to communicate to the leadership in Beijing that the United States still values human rights.

It is the best way to tell the Chinese Government that we will not forget Tiananmen.•

IN MEMORY OF TIANANMEN

• Mr. MOYNIHAN. Mr. President, I rise today to note the solemn anniversary of the massacre of Chinese students and prodemocracy activists in Tiananmen Square, and to honor the memory of the men and women who were so cruelly murdered by the totalitarian regime of the People's Republic of China.

No one who witnessed the events will soon forget the images of students and others rallying around the Goddess of Democracy statue, modeled on Bartholdi's Statue of Liberty Enlightening the World in New York harbor.

The Chinese Government has long argued that democracy is inimical to Asian values and that Americans' insistence on human rights is a form of cultural imperialism. The students in Tiananmen Square provided the most compelling refutation of such tripe.

Our hope that we were witnessing the dawn of a new era in China was dashed when, on June 4, 1989, the so-called People's Liberation Army moved into Tiananmen to thwart the aspirations of the Chinese people. The photograph

of one lone Chinese individual—Wang Weilin—confronting a column of 18 PLA tanks is both a tribute to the courage of the Chinese people and a fitting emblem for a regime that believes it can crush ideas with 120 millimeter guns and hold back the tide of history with bayonets.

I am sorry to say that since 1989, China has continued to silence dissent. So much so that the State Department reported this year that by 1996, ''all public dissent against the party and government was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention, or house arrest. No dissidents were known to be active at year's end.''

On this occasion, let us honor the memory of those who were slain and reiterate our solidarity with Chinese dissidents imprisoned by their government.●

WE THE PEOPLE . . . THE CITIZENS AND THE CONSTITUTION COMPETITION

● Mr. CLELAND. Mr. President, I rise today to recognize the following students of Dunwoody High School in Dunwoody, GA, and their teacher for their excellent performance in the We the People . . . The Citizens and the Constitution: Deno Adkins, Leslie Alterman, Chuck Askew, Querida Brisbane, John Brown, Alice Bui, Kevin Campbell, Carrie Chu, Jeff Guggenheim, Susie Ham, Adam Hassler, Judy Hong, Michael Landis, Rachel Moore, Regan O'Boyle, Youn Park, Kim Pham, Ahmer Siddiq, David Stewart, Adam Tate, Brad Thomas, David Tran, Christin Voytko, Morhan Willis, Brent Wolkin, and teacher Celeste Boemker. I would also like to recognize the efforts of the State coordinator, Michele Collins and district coordinator, John Carr, who helped these students make it to the finals.

This bright young group of students competed against 50 other classes from around the Nation, testing their knowledge of the U.S. Constitution and our Government. They spent hours roleplaying and testing to prepare themselves for this competition. This 3-day program simulates a congressional hearing in which students' presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Mr. President, it is with great pride that I offer my congratulations to these students from Dunwoody High School for their outstanding performance at the We the People competition, and wish them continuing success with their future studies.●

INDONESIAN ELECTIONS

● Mr. FEINGOLD. Mr. President, I rise today to draw the Senate's attention to the parliamentary elections that took place in Indonesia last Thursday, May 29.

Actually, it does not seem accurate to call this event an election since the polling was conducted amid worsening political repression and human rights abuses by the Indonesian Government. As in past elections, all candidates were prescreened and new political parties banned. Individuals who posed even the slightest challenge to President Suharto's power were not allowed to participate. We cannot mistake this process for a real election. Rather, it was a pitiful example of a brutal authoritarian Government attempting to masquerade as a democracy.

Clearly many in Indonesia are angry about not having a voice. This latest election was the most violent in 30 years. Rampant corruption among Indonesia's ruling elite and continued high unemployment have created a deep vein of discontent. Yet Indonesians are given no choice other than Suharto, who already has ruled Indonesia for more than three decades.

Mr. President, the human rights situation in Indonesia remains as bad as ever. Five demonstrators were killed by troops last July after the Government engineered an attack on the office of an opposition party. In addition to the 5 dead, 23 protestors are still missing. Also last summer, labor leader Muchtar Pakpahan was arrested on trumped-up sedition charges. Mr. Pakpahan's only crime was to demand democracy, respect for human rights, and decent labor conditions.

The State Department's 1996 human rights report indicates that prisoners like Mr. Pakpahan frequently die at the hands of their interrogators. The report states that Indonesian ''security forces continue to employ torture and other forms of mistreatment, particularly in regions where there were active security concerns, such as Irian Jaya, and East Timor. Police often resort to physical abuse, even in minor incidents.''

Indeed, the human rights situation in East Timor continues to be a matter of great concern. Since last Tuesday, as many as 41 people—both East Timorese citizens and Indonesian soldiers—have died in election-related violence. Unfortunately, such killings are a part of daily life in East Timor. Human rights monitors estimate that as many as 200,000 East Timorese have died under the Indonesian regime. Two hundred thousand. That represents a full third of East Timor's population before Indonesia invaded the former Portuguese colony back in 1975.

On the day before Indonesia's election, East Timorese activist and co-winner of the 1996 Nobel Peace Prize Jose Ramos-Horta visited Washington. Mr. Ramos-Horta carried with him graphic evidence of human rights abuses that have occurred in East Timor in the last few months, evidence that includes disturbing photographs of Indonesian military officers torturing East Timorese detainees with electric shocks and lit cigarettes.

In his statement on the elections, Mr. Ramos-Horta notes that the unrest in East Timor is now spreading into Indonesia as people grow more frustrated with the existing political system. According to Mr. Ramos-Horta ''a spiral of violence can be anticipated for Indonesia from now on as dissent grows. It will be met with the customary repression by the military-backed regime, now increasingly desperate as its grip on power begins to slip, leading to an extended period of instability, disruption to peace and much human suffering.''

I agree that the violence in Indonesia will only subside after President Suharto initiates real democratic change and, for example, allows all parties to compete equally in the political process.

However, like their counterparts in China, Indonesian authorities try to argue that greater democracy will lead to instability which in turn will impede economic development. I fundamentally reject this idea. Clearly, with so many Indonesians venting their anger against the present regime, the problem is not too much democracy, but too little. Just because President Suharto's government has boosted economic growth does not mean it has the right to murder and torture Indonesians and East Timorese.

Mr. President, the events of last week only further my discomfort regarding United States policy in Indonesia. As you know, the United States has supplied Indonesia with military training and weapons. Rather than aid Indonesia's military, we should encourage the democratic forces within Indonesian society. As a world leader with great influence in Jakarta, the United States should work to convince Indonesia's leaders that holding real elections, the kind that give people a true say in how they are governed, is a sign of national strength, not weakness. ●

TRIBUTE TO ISADOR LOUIS KUNIAN

● Mr. CLELAND. Mr. President, I rise today to honor Isador Louis Kunian, a long-time friend who passed away on March 5, 1997. Born in Atlanta, GA as Isador Louis Kunianski, he shortened his last name, but everyone who knew him called him Sonny. We are honoring Sonny not only because he was successful, but because he used the fruits of his success to help others. One of Sonny's greatest personal drives was to help people who wanted to help themselves. His participation in the education of hundreds of persons will provide a legacy to Sonny. In Sonny's own words, ''Providing for a person's education is the greatest investment that I have ever made.''

In 1980, he established the Mildred and I.L. Kunian Scholarship Fund at Georgia Tech that has helped more than a hundred students pay their college bills. In addition, he founded the Georgia Tech Satellite Literacy Program, which broadcasts, via satellite

television, adult basic education classes to over 100 classrooms in rural Georgia. Sonny was instrumental in securing funding for the program from Federal, State and foundation sources.

Sonny was a graduate of Atlanta's Boy's High School and then Georgia Tech, receiving his degree in textile engineering in 1934. Sonny played freshman football for Georgia Tech, was on the student council and was a member of several honor societies. Following college, he went to work in the textile industry until needed by the Navy from 1943 to 1945. Following this, he distinguished himself in the business world as a past president and partner with Atlanta's Kay Developers and later his own real estate development company, Kunian Enterprises.

In civic affairs, Mr. Kunian was active and held office in a number of organizations, including the Center for Rehabilitative Technology, Inc., the Georgia Chapter of the Arthritis Foundation, the Atlanta Symphony Orchestra Association, the Southeastern Regional Board of the Anti-Defamation League, Families First, the American Jewish Committee, the Georgia Council on Adult Literacy, the Southern Regional Education Board and the National Jewish Welfare Board.

Mr. President, I ask that you join me in recognizing the impact Sonny made on the world in which we live. He will be sorely missed.●

FAMILY FRIENDLY WORKPLACE ACT

The PRESIDENT pro tempore. The Senate will now resume consideration of S. 4, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 4) to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Grassley amendment No. 253, to provide protections in bankruptcy proceedings for claims relating to compensatory time off and flexible work credit hours.

Grassley modified amendment No. 256, to apply to Congress the same provisions relating to compensatory time off, biweekly work programs, flexible credit hour programs, and exemptions of certain professionals from the minimum wage and overtime requirements as apply to private sector employees.

Gorton modified amendment No. 265, to prohibit coercion by employers of certain public employees who are eligible for compensatory time off under the Fair Labor Standards Act of 1938 and provide for additional remedies in a case of coercion by such employers of such employees.

Mr. LOTT. Mr. President, on the family friendly workplace bill itself, the comptime/flextime issue, I hope that we can come to an agreement on this. Senator DASCHLE has indicated he would like to work with us on it. The President said during the election campaign and, in fact, 2 weeks ago, he would like to work with us on giving some flexibility to workers' schedules. I believe he has indicated that again today. Senator ASHCROFT has done such a magnificent job on this bill. In fact, I believe the President said flextime is very important—flexibility is very important. I wrote it down and gave a copy of it to the Senator from Missouri.

So, we all agree that having a little option of taking your comptime in terms of higher pay or the option of it being some time off, that's a good idea. We all agree, I think, that working spouses ought to have a little flexibility in their schedules. That is who really benefits from the flextime portion of this bill.

Now, if there are questions or concerns about making sure that it is fair and there is no intimidation, it is truly voluntary, hey, let's work that out. We ought to do that. We want those protections. We want those guarantees. But I want somebody to explain to me how I can explain to the hourly workers in my State that they should not have these options even though Federal employees do. And, as a matter of fact, in truth, so do salaried employees. If they want a little time off, they take it off. But, no, not the hourly workers, not the blue collar workers in my State, not the people out there pulling the load. They don't even have this option.

Protect them, make sure that the law doesn't get out of control, that it's abused—let's do that. But to have this type of flexibility, to have a more family friendly workplace, isn't that a worthwhile goal? Can't we do this?

The Senator from Massachusetts and I worked together on some bills that he forced me to work with him on. I didn't particularly want to, but we wound up doing it. We got health insurance reform last year, thanks to the good help of the Senator from Kansas, Senator Kassebaum. This very day, an unbelievable achievement was signed by the President of the United States: IDEA, I-D-E-A, Individuals With Disabilities Education Act. Last year we gave up in exhaustion. We couldn't get it done. This year, because of a lot of good staff work, administration input, Democrats, Republicans, all regions, all races, all ethnic backgrounds, all degrees of philosophy, we came together on a bill that will help education in America—not just for the disabled, but I believe all of our children will be better off because of this bill. We got it done because we put aside our prejudices and our determinations that we were going to be committed to this position or that position and we said we need results and we got results.

We need to do this on this legislation. Let's get started. Let's work together. If you have amendments, put them up. I would like them to be germane. I would rather we not solve some irrelevant issue. Let's stick to the subject at hand. And I believe the American people would be the beneficiaries.

So I hope that my colleagues on both sides of the aisle will vote for this cloture, or if they don't, tell us how we can come together and give this opportunity to working Americans.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I was listening to the comments of our friend and our majority leader with regard to the cooperative effort on the IDEA legislation, and he has correctly characterized that. He himself deserves great credit. This was worked out in a strong, bipartisan way.

I am hopeful that we can have that same kind of cooperative effort on our children's health insurance proposal, which Senator HATCH has introduced and which I have cosponsored, which has such broad Republican and Democratic support across the country and which I believe a majority of the Members of this body, Republican and Democrat, support as well.

The Senator made a very eloquent statement about how we want to be family friendly. I would like to see some progress for the sons and daughters of working families who are making $20,000 to $25,000. I would like to see some progress for the single heads of households with two children who are unable to afford the premium for their health insurance. Those Americans need to have what I would consider to be one of the most, if not the most important, family friendly protection, and that is to make sure that their children can have the same healthy start as do children of so many of the Members of this Congress and Senate.

So, I know that the next business before the Senate is the cloture motion on S. 4. But I am very hopeful that we will find an opportunity to address this important proposal. The majority leader felt our amendment on the budget was inconsistent with other terms in that agreement. Yet, I would say to my friend and colleague, it was interesting yesterday when the House Members went down to see the President that they introduced a new concept, a medical savings account, which Republicans and Democrats had agreed to last year on the Kassebaum-Kennedy bill, for 750,000 people. And the Republicans also proposed a limitation on punitive damages to protect doctors, even though we have some 50,000 Americans who die in hospitals every year from preventable injuries. Yet I didn't hear that that proposal was part of the budget deal.

So, I hope, as we move forward, we will be able to gain the attention of the majority leader on the issues of children's health. The majority leader knows very well the administration is

trying to help children covered by Medicaid, who are the poorest of the poor. We commend that. The Rockefeller-Chafee proposal is a bipartisan effort to target resources to make sure those children who are eligible for Medicaid will continue to be covered. We believe that proposal will cover about 3 million poor children. But we cannot forget the other 7.5 million children. Our proposal is paid for in its entirety—so we would not interfere with the general outlines that have been agreed to in the budget—with a cigarette tax, which has the added benefit of discouraging teenagers from smoking.

I know, when the Senator was talking about the areas where there has been cooperation, I want to commend him for the great leadership he provided on IDEA. He also referenced the progress that was made last year and commended Senator Kassebaum. I look forward this year, when we pass the Hatch-Kennedy bill, to commending a similar bipartisan effort. I believe if we just had a little more favorable view from our majority leader, that proposal could go through here in incredibly rapid time.

But I see our leader on the floor at this time, so I will withhold further comments to permit him to speak.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Madam President, let me commend the distinguished senior Senator from Massachusetts for his comments.

Let me say I completely associate myself with his remarks and appreciate his extraordinary leadership on children's health issues in particular. I came to the floor just to respond to the distinguished majority leader. I didn't hear all that he said, but it was reported to me. I know he made comment about the progress we are making on the supplemental appropriations bill. I must say, I am pleased to hear maybe some progress has been made.

We have been patient, and I think he would concede that we have been patient. And we have been very tolerant of the extraordinary delay that has existed now for some time in moving this legislation forward. He tried, prior to the time of the Memorial Day recess, to negotiate some settlement, as did the rest of us, and failed to find some way with which to resolve the differences.

The problem we have, though, Madam President, is that we continue to send the message that even though people in the Dakotas and Minnesota are losing sleep, even though mayors and city councilmen and business people and homeowners and farmers continue to be exasperated and frustrated with the lack of progress here, it is business as usual on the Senate floor. It is business as usual in the Congress. We send the message that it doesn't seem to matter how grave the circumstances, we are not going to change the way we are doing business here; we will continue to do business as usual.

So our message to them was that we don't care how long it takes, this Congress ought to stay here tonight, tomorrow, tomorrow night, the next night until we get an agreement on this conference report, until we can find some way to resolve these differences, until we can say to those people without equivocation, we know it is not business as usual, we know that we have to get something done, we know that you are hurting and we are going to respond. But we are not sending that message when we adjourn, when we don't meet, when we don't make progress on any of the contentious issues for which there has been disagreement now for weeks. When does it end? When do we break some new ground and move the bill on?

I am pleased, if the majority leader is accurate, with the report that we could have some resolution to some of these issues this afternoon. At long last, we may be able to send the right message to the people waiting now all this time. But there are 33 States detrimentally affected, probably no States more detrimentally affected than those States in the Midwest, Dakotas and Minnesota. So, clearly, something has to be done. I hope if we are not going to resolve the conference report this afternoon, the majority leader will allow us to stay in, will allow us to continue to address these issues, that we will not accept business as usual, and that we can send as clear a message as possible that we understand how grave this situation is, and we are going to respond just as effectively and as quickly and as completely as we possibly can. That is what the message ought to be.

We are going to have a compensation vote again this afternoon, a comptime vote. I must say, I am disappointed. The majority leader talked about it being a two-way street on the supplemental appropriations. I would like it to be a two-way street on comptime. I would like the Republican leadership and our Republican colleagues to take a good look at what we are suggesting as a way with which to resolve this impasse. That has not happened yet. Whether it is the supplemental, comptime or any one of a number of issues, the only way we can demonstrate this two-way street is if we can find some common ground and work together. At least let's recognize today that we will not leave, we will not adjourn, we will not pretend it is business as usual so long as we haven't resolved the outstanding differences on the supplemental bill.

I urge the leader to do that, and I hope that he can work with us to ensure that we send that message out to those who are detrimentally affected all across this country and are looking for some hope and some understanding of our appreciation of the seriousness of the problems that they are facing. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I join in the urging of our distinguished leader in hopes that there can be some resolution to this enormous human tragedy in the Dakotas and in parts of the Midwest. Massachusetts is not affected, Madam President, but it was not long ago that we had hurricanes that came across the Massachusetts coast, that traveled through New England and brought devastation, hardship, and plight to many communities. Many New Englanders lost their homes, their businesses, and their property. And, when the hurricanes went through South Carolina, I remember the words of our friend and colleague, Senator HOLLINGS, who spoke on that issue so passionately. And I remember how this institution responded so quickly. I think all of us remember the tragedies caused by the recent hurricanes in Florida. Homestead Air Force Base was devastated and many of the communities in the surrounding areas were destroyed. And all of us must remember how we in the Congress reacted.

Every American has been touched by what has happened in the Midwest. When the Senator from South Dakota speaks about this issue, as the Senator from Minnesota did yesterday, and the Senators from North Dakota did in the past few days, they are really speaking for all Americans. This is not just a regional issue, it is a national issue, and it is of national importance. I think all of us who have watched the courage and the strength of those families as they have faced this extraordinary human tragedy are challenged to say why not now? Why not take the action now? This is special. It is unique. It is a crisis. It is affecting children. It is affecting families. It is affecting elderly people. It is affecting them in many different ways, and we should be able to respond.

I commend our colleagues from those areas, who know it best, for their very constructive recommendations. We have given them assurances from all parts of the country that we stand behind them. As we are about to use the last of the time before the cloture vote, I join with the Democratic leader in being troubled by the earlier statement that we would not see any further action on this measure today. I was unable to speak on this issue yesterday. We have other Members on the floor who want to address the Senate on S. 4, but I see the Senator from South Dakota.

Mr. DASCHLE. Madam President, I will be very brief.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Let me just thank the Senator from Massachusetts for his words of support. As he has indicated, even though perhaps it is the upper Midwest that is most detrimentally affected, States all over the country are affected, even in those areas where there hasn't been a disaster, as in the State of Massachusetts.

The Senator speaks eloquently about the degree of support and sensitivity that we find across the country for the plight that we have in the Dakotas and Minnesota, particularly. Let me just say, we have had a remarkable degree of response within our caucus. Virtually every Senator has indicated they would be willing to stay tonight and speak for a period of time about the circumstances in their State or the circumstances involving the legislation. Every Senator has expressed a willingness to come to the floor, whether it is 2 or 3 or 5 o'clock in the morning. They have indicated a willingness to be here.

Let me thank all of my colleagues for their expressions of interest and participation and my hope that we can participate in a meaningful way, not in a controversial or confrontational way necessarily, but simply providing the rest of the country a better opportunity to understand the extraordinary situation that we are facing and the need for us to respond as quickly as possible, given this late date.

So I thank my colleagues. I hope that we get Republican participation. I certainly hope that this notion that we are going to adjourn rather than to have a good debate is nothing but a false rumor and that we will have the opportunity to participate in that colloquy tonight. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I say to my friend and colleague from South Dakota that churches all over Massachusetts last Sunday had collections for people in the Dakotas. This is illustrative of the feeling all over this country.

Madam President, how has the time been allocated and what remains between the Senators?

The PRESIDING OFFICER. The Senator from Massachusetts has 13 minutes; the Senator from Missouri has 23 minutes remaining.

Mr. KENNEDY. I will take 2 minutes, and then I will yield to our colleagues.

On the issue, Madam President, of the so-called Family Friendly Workplace Act, I believe it is basically a cruel hoax on American workers. It is really a one-sided bill that provides maximum flexibility for employers and no flexibility for employees. It deserves no support from any Senator. It received none from any Democrat on the first cloture vote 3 weeks ago. In fact, two Republicans broke with their party to oppose cloture, and I encourage my colleagues to oppose cloture again today.

Some have suggested that with this second cloture vote, the Republican proponents of S. 4 are simply playing out an elaborate charade. By forcing further debate on S. 4 in this way, they hope that the Ballenger bill in the House will seem less extreme.

That strategy will fail. Less extreme is still extreme. Our Democratic alternative—and I pay tribute to Senator BAUCUS, Senator LANDRIEU, and Senator KERREY for the development of that alternative—remedies the gross defects of both the Ashcroft Senate bill and the Ballenger House bill. It is a realistic approach to comptime that is not slanted in favor of employers and against employees. It is the only comptime bill that is worth the name and it deserves to pass.

The Democratic alternative is superior in many ways. First, it protects the 40-hour week, while the Ashcroft bill abolishes that fundamental principle.

Second, our alternative forbids discrimination against workers who need overtime pay and cannot afford to take the time off instead. The Ashcroft bill permits employers to assign all the overtime work to employees who will accept comptime.

Third, the Democratic alternative guarantees employees the right to use comptime when they need it the most. That is the key element. The employees have the right, that is the key in any evaluation of which bill deserves support. The alternative provides that the employees have the right to use the time when they need it. The Ashcroft bill does not give employees a right to use the comptime even in the most serious family or medical emergencies.

Finally, the Democratic alternative imposes no pay cut on working families, while the Ashcroft bill would reduce workers' wages substantially.

For all these reasons, I urge my colleagues to oppose cloture. The Ashcroft paycheck reduction act does nothing for working women. It does nothing for working men. It does nothing for working families. It should be rejected out of hand, and I urge my colleagues to do so.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. KENNEDY. I yield 3 minutes to Senator LANDRIEU.

Ms. LANDRIEU. Three minutes is just fine.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Thank you, Madam President. To my distinguished colleague from Massachusetts who has been such a strong and solid voice for working families and working people throughout this country, I appreciate his help on this issue.

I am here today with my colleagues, Senator BAUCUS and Senator KERREY, to offer some thoughts as to how we can make this particular bill more meaningful to working families.

There is an architect, Bill McCuen, in South Carolina who is now running for Congress. He recently changed his political affiliation from the GOP to the Democratic Party. Mr. McCuen has suggested that the national GOP is ''substituting rhetoric for wisdom and * * * building walls instead of opening windows.'' With all due respect to my colleagues on the other side of the aisle, I have concluded that Mr. McCuen's analysis is applicable in this instance. Perhaps he has had an opportunity to study S. 4.

This bill, in its current form, is not about families nor is it friendly. The issue before us today is about workplace fairness. The bill is harmful to families in its current form. Our distinguished majority leader says S. 4 provides much-needed flexibility to workers. But Madam President, this measure is not about giving flexibility to workers; this bill is about flexibility only to employers or bosses. The 40-hour work week and the protections it affords have been in place since 1938. Under S. 4, these protections are clearly abolished. I believe that as Members of this body we have a real obligation to create truly family-friendly legislation as opposed to the proposal being offered by the majority.

There has also been a lot said Madam President about this bill helping women who are now working more than ever before. Today, 60 percent of mothers with young children are in the workplace.

This bill does not offer any relief for mothers to spend more time with their children or to meet necessary family obligations.

Madam President, this bill neither makes for a better workplace nor is it family friendly. This legislation is merely a comptime scheme that will hurt the hard-working families of America—it will cut their pay, decrease their benefits and pensions, and threaten their long-term plans.

It will take decisions that should be made by a worker and give them to an employer and it abolishes a standard that this Nation has abided by for the last 60 years—the 40-hour work week.

Madam President, my Democratic colleagues want real flexibility and choice that will protect the working families of this country. We Democrats understand and support the desire employees have for more flexibility between work and family. Democrats fought for an increase in the minimum wage and the Family and Medical Leave Act so that workers would not have to choose between serving their family and serving their employer. Between taking their child to the doctor or getting to work on time.

However, we also recognize that we need to have innovative arrangements in the workplace so that both employers and employees can be sure that their basic interests are protected. Madam President, the Baucus-Kerrey-Landrieu alternative would provide this real flexibility to working families because: Employees could decide when to accept overtime pay and when to accept comp time; employees could decide when to use their comptime; health and pension benefits for workers would be protected; and the 40-hour work week would be preserved.

Madam President, the legislation that my distinguished Republican colleagues have introduced is wrong for working families and would be harmful

to the continued economic success of this Nation because it does not offer workers any flexibility in meeting their obligations to their families and fulfilling their duties to their employers.

Instead, S. 4 gives employees less control over both their time and their paychecks. Critical decisions that affect time spent at work, time spent at home, vacation, sick leave, and compensation are all in the hands of the employer instead of where they belong—with the employee.

S. 4 undermines the 60-year tradition of the 40-hour work week—a tradition that has helped build this Nation into the world's leading economy. This bill, as it stands, would create an 80-hour work period before an employee could earn overtime. Workplaces have been governed by the principle that asking employees to work more than 40 hours would be a serious infringement on their personal lives—what working parent would want to have even less time with their children than they have now?

Under the bill offered by my distinguished colleague from Missouri, employees would make less money and have less choice. Hours of comptime used would be counted as hours worked. This means that an employee who used 5 hours of comptime on Monday to take care of a sick child at home could be forced to work on a Saturday or Sunday to make up the hours but would not be paid overtime.

Furthermore, Madam President, the health and retirement benefits of many employees are linked to the number of hours they work so their benefits could be slashed under S. 4. Also, nothing in this bill would prevent an employer from substituting an existing paid leave plan, such as vacation or sick leave, with comptime. Employees could be forced to work overtime and choose comptime if they wanted a vacation or needed sick leave.

The bill offered by my friend from Missouri is also unrealistic, employees couldn't really take advantage of comptime when they needed it. Employers could deny an employee's request to use comptime if the employer could claim that the business would be unduly disrupted—regardless of why the employee needed the time off. This bill forces employees to take a chance that they may be able to take time off when it is as valuable to them as overtime pay.

For example, Madam President, take an employee who wants to chaperone her daughter's fourth grade class on a field trip. She chooses to accept comptime for overtime hours worked in order to earn enough paid time off to spend that time with her child and her classmates. Her employer agrees. But when it comes time for the field trip, after the employee has already worked enough overtime to account for any time off, the employer could claim that the employee's absence for the trip would unduly disrupt the business and then justifiably, under this bill, replace the time off with overtime pay. How much money could replace that field trip—the time off that the mother earned and worked for?

Would it be enough to pay for the nonrefundable cost of the trip?

Would it be enough to make a child forget about a lost chance to spend quality time with a parent?

Would it be enough to make up for the inconvenience that the school would have in getting another chaperone?

Madam President, I believe that, at that point, the overtime pay just isn't enough.

Madam President, public employees have long had protections that private sector workers do not enjoy. For example, Federal workers can only be fired for just cause under the Civil Service system. Alternative work schedules like comptime and flextime went into effect for Federal employees as a 3-year experiment in 1978. They were extended in 1982 and made permanent in 1985. In all cases, employees may elect but cannot be compelled to accept comptime in lieu of overtime pay.

Madam President, I agree with my distinguished colleague from Missouri that private sector workers should have greater flexibility and I commend Senator ASHCROFT for his honest effort on behalf of the people of his State and the country. However, S. 4 does not provide workers the flexibility my Republicans colleagues are looking for. The Baucus-Kerrey-Landrieu substitute, though, does.

Our measure, a meaningful substitute to S. 4, protects working families by providing: That employers cannot discriminate in offering comptime or overtime pay; employees could use comptime for any purpose, as long as they give their employers at least 2 weeks prior notice; comptime could be used with less notice if the business would not be unduly disrupted; overtime for over 40 hours worked in 1 week would be preserved, maintaining the 1938 Fair Labor Standards Act; employers would be prohibited from intimidating, threatening, or coercing employees into participating in a biweekly flexible credit hour program; comptime is treated as hours worked in calculating retirement and health benefits; comptime could not be used to replace or substitute for vacation or sick leave plans; and construction, garment, and other seasonal workers would be exempt.

Madam President, S. 4 is a total sham. It is not friendly toward working families. Employers, not employees, maintain the ultimate control over use of comptime earned under this bill.

The unfairness of this bill is further borne out by the fact that during the Labor Committee markup of S. 4, the majority refused to provide workers real choices in the workplace by rejecting an amendment that would have ensured that employees could take compensatory time for any of the reasons currently covered under the Family and Medical Leave Act such as to take care of an ill parent if the absence of such workers would not cause ''substantial and grievous injury to the operation of the employer.''

Madam President, the Baucus-Kerrey-Landrieu substitute gives real flexibility and protection to working women and their families but, most importantly, it allows both employers and employees to work together to create the right kind of cooperation in the workplace while at the same time allowing working families to choose if and when and how they take and use comptime. I urge my colleagues to support and adopt this substitute.

Thank you, Madam President. I yield the floor.

Madam President, 56 percent of hourly workers are women, nearly 60 percent of those earning minimum wage are women, more than 80 percent of overtime recipients have annual earnings of less than $28,000; and 61 percent earn $20,000 per year or less.

Working women need their overtime pay. They need flexibility but it needs to be the choice of the workers, not the employers.

Finally, I would like to say that I believe most employers in this country want a bill that is fair both to their businesses and to their workers.

I reach across the aisle to my colleagues and say: Let us work toward a compromise that establishes real comptime for working families in America. Let us substitute wisdom for rhetoric. Let us open windows instead of building walls as we work to create a policy that will help all Americans in the workplace.

I thank the Senator for the additional time, and yield to Senator BAUCUS.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor and controls the time, unless the Senator from Missouri seeks recognition.

Mr. KENNEDY. How much time do I control?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. KENNEDY. Four minutes?

Mr. BAUCUS. Five?

Mr. KENNEDY. Five.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. BAUCUS. Thank you, Madam President. I also thank my good friend and colleague from Massachusetts.

Madam President, I rise today in very firm opposition to the cloture motion on S. 4, the so-called Family Friendly Workplace Act, sponsored by my colleague from Missouri, Senator ASHCROFT. Why do I do so? In speaking against cloture, I do not wish to convey that I oppose the idea of comptime. Quite the contrary, comptime is an idea whose time has come. Indeed, Federal workers get comptime. I think that other employees should also get comptime.

We all hear from people in our home States—I know you do, Madam President—we all do—how pressed people

are, particularly working moms, pressed for time, and do not have the time to keep their job as well as take their children to Babe Ruth ballgames or to parent-teacher conferences, and are very pressed for time. It only makes sense, Madam President, that employees, women and men on the job, get a little more flexibility so they can take time off to be with their family, with their children.

It is not an easy task that parents have these days. Comptime would let working parents balance the needs of their families with the demands of their jobs. I believe it is only fair that we give America's families that tool.

Unfortunately, the bill we are now debating, the so-called Family Friendly Workplace Act, fails to live up to its name. It is not family friendly at all. Why do I say that? First of all, the bill does not give workers the choice they need to make comptime effective. Under this bill, the employer can decide when a worker takes time off, not the employee. That means there is no guarantee that a parent would have time off when he or she needs it the most. That completely undermines the very concept of comptime.

In addition, this bill dismantles two important safeguards that are fundamental to protecting the rights of workers.

First, the bill eliminates the 40-hour workweek and replaces that time-honored tradition with an 80-hour, 2-week system, which means, under their bill, a worker who works 60 hours in 1 week may not be entitled to 1 minute of overtime.

Second, this legislation would allow an employer to discriminate against a worker who chooses to take their overtime in the form of pay. Why? Because by assigning overtime only to workers who they know will take their accrued time in the form of vacation, the employer can save some money. But the worker gets pinched.

Both of these changes will result in a pay cut for people who punch the clock. Lots of families depend on that extra money to make ends meet. We cannot risk taking it away from them.

So that is why I rise in opposition to the cloture motion today, Madam President. But, as I said earlier, I am not speaking today against the idea of comptime. I like comptime. That is why I have offered a substitute amendment joined by Senators KERREY and LANDRIEU. We will offer that substitute at the appropriate time. I think our bill gives workers the right kind of comptime.

We offer employees comptime where they can choose when they take their own time off, comptime where they can take pay or time off without worrying about discrimination from their employers, and comptime that preserves the 40-hour workweek.

Our amendment, I think, is clear. It is more reasonable and it is a better choice. I believe, Madam President, that when Senators look at both choices, the substitute that I plan to offer, as well as the current bill, they will realize that the better approach is the approach that we are suggesting.

Madam President, the President has indicated that he would veto the current bill but he would sign the bill that we will be offering at the appropriate moment. I urge my colleagues again to vote against cloture.

I yield back the balance of my time.

Ms. MOSELEY-BRAUN. Madam President, I oppose S. 4, the so-called Family Friendly Workplace Act, for the basic reason that it is not family friendly. This legislation, as written, will disrupt family schedules, decrease family incomes, and make it harder for working families to balance the competing needs of work and family.

S. 4 will serve to decrease family incomes by eliminating overtime pay for many workers. Under S. 4, an employer has the ability to select which worker is given extra hours to work. An employee who wants overtime pay instead of comptime may be passed over for the additional, and often needed, extra work. The lost income can mean a pay cut of up to 15 percent for many families.

In this country, more than 80 percent of overtime recipients earn less than $28,000 a year and 44 percent of those who count on overtime earn as little as $16,000 a year or less. These are hard working mothers and fathers, willing to work extra hours to help support the family. These are not families that can afford a pay cut. S. 4 has been called the paycheck reduction act exactly because these families will be forced to lose the extra work or to take comptime in lieu of overtime.

S. 4 will interfere with the carefully crafted schedules of families struggling to work and raise children for several reasons. First, employers are given enormous control over how, when, and if workers can earn overtime or comptime. Workers who are given the option to choose comptime by their employer and do so, cannot necessarily use the comptime when they want. Employers can deny a comptime request if it would unduly disrupt business. There is no consideration of the importance or necessity of the time off for the family. If a family sacrifices to earn comptime, there is no guarantee that they will ever be able to use it.

S. 4 would eliminate the 40 hour work week for many hourly workers. Under this legislation an employee could be asked to work 65 hours one week and 15 hours the next. In the next 2-week period, the employee could be given a schedule of 23 hours one week and 57 hours the next. This would wreak havoc on the home life of employees, particularly ones with children at home.

Under S. 4, employers are given flexibility—the flexibility to change workers' schedules to meet the demands of the factory or office. This is flexibility in only one direction. A real comptime bill would provide workers with the flexibility to change their schedules to meet the demands of the home and the family.

The majority of hourly workers are women and many of these women are already struggling with the issue of working and raising a family. The issue of child care is particularly relevant. Constantly fluctuating work hours make it difficult to find good child care. The interests of children, who may be home alone more now because of the loss of schedule certainty, are denied here. Flexibility in only one direction can be coercion, and that is not the balance we should strive to achieve.

Six organizations representing working women throughout America are opposing S. 4, precisely because this bill is so hard on working women; 9-to-5—the National Association of Working Women, the American Nurses Association, the Business and Professional Women, the National Council of Jewish Women, the National Women's Law Center, and the Women's Legal Defense Fund are all on record as opposing this legislation, because they ''believe passage of S. 4, the Family Friendly Workplace Act, fails to offer real flexibility to the working women it purports to help * * *''

I support making workplaces more family friendly. Unfortunately, that is not what S. 4, does. I urge my colleagues to vote against cloture and against S. 4. This legislation will be bad for workers, bad for women, bad for children, and bad for families. Let us make the 105th Congress a family friendly Congress by opposing S. 4.

Mr. BINGAMAN. Mr. President, I rise to speak briefly about S. 4, the Family Friendly Workplace Act of 1997 and the alternative that has been offered by my friends and colleagues, Senators BAUCUS, KERREY and LANDRIEU.

Mr. President, while the goals embodied in S. 4 may, on the surface, appear to be family friendly, the legislation passed by the Labor Committee is decidedly worker unfriendly.

Unlike the bill recently passed by the House, S. 4 is not limited to the issue of compensatory time. Instead it includes provisions related to flexible scheduling and flexible credit hours that repeal the 40-hour workweek, which has been the bulwark of employee protection for almost 60 years, and turn the purported choice for employees that supporters claim S. 4 provides into no real choice at all.

S. 4 provides compensatory time to employees in lieu of time-and-a-half. While this is an idea that resonates with a great number of people, I believe the compensatory time provision of S. 4 does not provide sufficient autonomy to employees in selecting compensatory time in lieu of overtime and that many employees will be forced to take the option of flextime.

By allowing employers to choose which of the three options to offer, compensatory time, flexible scheduling, or flexible credit hours, it is inevitable that they will offer either the

flexible 80 hour work schedule or flexible credit-hour program.

That is because, unlike comptime which is in lieu of overtime and therefore must be exchanged for 1½ hours off, the flexible schedule options require only a one-to-one exchange. Any employer looking at his bottom line will make the choice for the employees and the choice will be flextime over overtime or comptime. The obvious solution to this is to do what the House did and pass a comptime only bill, one that includes the protections for workers contained in the Baucus-Kerrey-Landrieu alternative.

S. 4 does not adequately protect employees' rights to choose comptime, to use it when they want and to be free from discrimination against employees who choose not to agree to take comptime or work flexible schedules. As written, S. 4 provides that an employee who requests the use of comptime off shall be permitted to use the time so long as it does not unduly disrupt the operations of the employer.

The alternative offered by my friends and colleagues, Senators BAUCUS, KERREY and LANDRIEU, would allow an employee to take banked comp after giving 2 weeks notice so long as it will not cause grievous injury to the employer, as well as for qualifying Family and Medical Leave Act purposes. It is important to remember that the banked hours are hours that the employee has earned. She should have control over when she uses them and the employer should have to meet a high standard for denying the request of employees to take the earned hours.

While S. 4 does not provide sufficient protection for vulnerable sectors of the economy such as garment and agricultural workers, the Baucus-Kerrey-Landrieu proposal does. It exempts part-time and garment industry workers, and provides the Secretary of Labor with authority to exempt other vulnerable categories of employees if she determines there is a pattern of violations of the act or to ensure that employees receive the compensation they have earned. These are important protections that should be included in any compensatory time bill we consider.

S. 4 allows too many comptime hours to be ''banked'' and does not sufficiently protect those hours in the event of bankruptcy. Senator BAUCUS' alternative allows 80 hours to be banked and does protect those hours in bankruptcy. It is interesting to note, that even the House-passed bill allows only 160 hours to be banked.

The Baucus-Kerrey-Landrieu also provides significant penalties for employers who violate it's provisions by discharging or otherwise discriminating against employees who choose not to take comptime in lieu of overtime.

Another important distinction between S. 4 and the Baucus-Kerrey-Landrieu alternative is that S. 4 does not sunset the provisions relating to either comp or flex time. Senator BAUCUS' proposal sunsets the provisions relating to compensatory time after 4 years and requires a Presidential commission to study the impact of the compensatory time provisions. Mr. President, even the House comptime bill sunsets after 5 years. This is yet another reasonable and sensible change to S. 4 that we should adopt and that will go a long way toward making S. 4 a truly worker-friendly bill.

Briefly, with regard to flexible credit hours and flexible scheduling, I believe these provisions are simply unnecessary and will be harmful to workers if enacted. Employers currently have a wide range of options with regard to offering flexible scheduling options to employees within the context of the 40-hour workweek. Employees can, for example, work 4, 10-hour days and be allowed to take the fifth day off. What the flexible scheduling and flexible credit-hour provisions of this bill do instead is present employees with a Hobson choice; either take the flexible credit hour or flexible scheduling option or forgo the chance to earn overtime. Simply put, S. 4 does away with the 40-hour workweek without providing anything for employees except a smaller paycheck. Despite claims to the contrary about the support for the idea of flexible scheduling, I sincerely doubt that American workers want to give up the 40-hour workweek in exchange for a potential 80-hour workweek.

Mr. President, I believe that many American workers could benefit from the option of choosing compensatory time in lieu of overtime pay. As many have said during debate on this measure, the workplace has changed significantly since enactment of the Fair Labor Standards Act. The American family has changed too. While many families might like to be able to take extra time to spend with their children or on other family matters, I don't believe that they would be willing to do so under the guise of S. 4.

As with many bills that come before the Senate, S. 4 embodies principles that both Democrats and Republicans can support. I hope that we will be able to do the right thing when it comes to S. 4 and limit the bill's scope to compensatory time and include the additional, needed protections for American families and workers.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Parliamentary inquiry. Am I correct that we have our 30 minutes and then the Senator from Missouri has the second 30 minutes? Usually under a cloture motion, the time is evenly divided.

The PRESIDING OFFICER. Under the agreement last night, the order was that the Senator from Massachusetts would have the first period of time followed by the Senator from Missouri.

Mr. KENNEDY. Madam President, I will yield myself the final minute and 45 seconds. How much time do I have?

The PRESIDING OFFICER. Two minutes and fifty seconds.

Mr. KENNEDY. I yield myself 2½ minutes.

Madam President, I want to just end up this debate by talking about women in our work force.

Madam President, 38 percent of hourly workers earning overtime pay are women; 11.6 million women work over 40 hours each week. This is 22 percent of all working women. Why do they work more than 40 hours a week? Because they need the overtime pay.

And 6.2 million women work over 48 hours a week each week. This is 12 percent of all working women. Why? Because they need the overtime. They need the pay.

And 3.6 million multiple job holders are women. This is 47 percent of all job holders. More women are getting second jobs. Why? Because they need the overtime pay.

And 1.8 million women hold two or more jobs and work over 44 hours each week. This is half of all women with two or more jobs. Why? Because they need the money.

The Ashcroft proposal abolishes the 40-hour week. Those women would not get the overtime because this bill abolishes the 40-hour week.

Under the Ashcroft proposal, the decision about whether employees will be able to take the time off is left to the employer. This is not the case under the Landrieu and Baucus and Kerrey bill, where the employee makes the decision. This is not the case under the Murray amendment, where the employee makes the decision whether to take a maximum of 24 hours over the course of the year. That amendment was defeated in our committee. Why? Because the employee makes the decision.

This bill is a pay reduction act for those women. That is why every women's organization that has fought for economic opportunity and progress for women—whether it be the minimum wage, the day-care program, pay equity, right across the board—every women's organization has condemned this bill because of what it would mean for working women.

Madam President, I hope that the cloture vote will fail. This bill does not deserve the support of this body. We have an alternative that will address those issues. And with the leadership of Senators LANDRIEU, BAUCUS, and KERREY, that is the way we should go.

I yield the balance of my time.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. I yield 4 minutes to the distinguished majority whip, Senator NICKLES.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, if my colleagues from Massachusetts and Louisiana and Montana wish to offer a substitute, they can vote for cloture. We can consider their amendment. I am happy to vote on their amendment. If other Senators have different ideas, we would like to get to the bill. Yet,

our colleagues on the other side, they say, ''We've got amendments,'' but they do not let us vote on the amendments.

They want to filibuster. They want to talk. But they do not want to vote. We want to vote. We want to give all Americans the same rights that we give Federal employees.

If flextime is so bad, why don't my colleagues introduce a resolution or amendment to stop flextime for Federal employees? They can offer that as an amendment on this bill. Let us find out. Federal employees happen to like flextime. It works. It has not been abused. It is not employer-only. If my colleagues on the other side read the bill, it says ''mutually agreeable.'' It does not say the employer has the sole decision or the employee has the sole decision. It says ''mutually agreeable.'' That is in the bill.

It works for Federal employees. Why don't we make it available for everybody else in America? Because my colleagues on the other side of the aisle do not trust Americans? They do not trust businesspeople? They do not trust employees to be able to make this decision?

The bill allows people, if they try comptime and they do not like it and they accumulate some hours and they did not use it, they can cash out. The employer has to pay. That is not optional. If the employee wants out and says, ''Hey, I don't like it. I want to go back to the old time where I can be paid overtime, be paid instead of comptime,'' they can be paid.

Our colleagues do not trust employees to be able to make that decision. They do not want to give them the choice to be able to say, ''Wait a minute. I have something coming up next week. I would like to work an extra hour, maybe every night for 5 days so I can have Friday afternoon off with my kids.'' They do not trust American women and American men to be able to make that kind of decision.

They are saying they are going to deny that kind of decision. That is what they are doing by filibustering this bill. They are saying to all Americans, we think you should not be able to make that decision. We are going to preempt you from making that decision.

I think that is a serious mistake. They do not trust American citizens, employers and employees, to be able to work out what is mutually agreeable. They are not going to allow employees, women or men, to be able to work, say, 9 hours a day for 8 or 9 days, and be able to take off every other Friday.

Why won't they let them do that? Why don't we give Americans that opportunity to have that choice, have that option? We are not mandating it. We are trying to give them that option.

So I want to compliment my colleague from Missouri. I ask unanimous consent for an additional minute, or ask my colleague for an additional minute.

Mr. ASHCROFT. I yield the Senator 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. NICKLES. I want to compliment my colleague from the State of Missouri who has given great leadership on this issue to give all Americans the same choice and options that we give Federal employees. I cannot believe my colleagues on the other side will not allow us to go forward with this bill. They can filibuster it. They may kill it. They may kill the whole darn thing. But I think they ought to be ashamed. If they want to vote for the Baucus amendment, let us vote for cloture. The Baucus amendment would be in order. Let us vote on it.

Then for my colleague to say this is against working women, that is hogwash. Working Women magazine and Working Mother magazine both endorse this bill. This bill, particularly the flextime provision, is very positive for working women.

I compliment my colleague and urge all of my colleagues to vote for cloture so we can help the working men and women of this country.

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

The Senator from Missouri.

Mr. ASHCROFT. I yield 4 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 4 minutes.

Mr. DOMENICI. Madam President, I am pleased to co-sponsor the Family Friendly Workforce Act. I have always had a long-standing interest in helping workers balance the competing interests of work and family.

Ten years ago, I introduced the Federal Employee Leave Act of 1987. This act established a type of leave sharing in which employees could donate some of their annual leave to a coworker who faced a personal emergency, but who lacked sufficient leave to attend to the problem. The Leave Act was good for workers because it provided an innovative way for employees to balance work and family when faced with a serious or unexpected illness.

I now stand before you co-sponsoring another bill which will provide relief to American workers when it comes to balancing work and family. The Family Friendly Workplace Act is not only good for American workers, but it is particularly good for women and children.

This bill recognizes that the American workforce is changing—especially for women. The number of women in the workplace has increased. According to the Bureau of Labor Statistics, women now account for 46 percent of the labor force. Over 67 percent of women with children under the age of 6 are working. That is compared with only 10 percent of working women 50 years ago. Moreover, 81 percent of American women will be in the work force, by the year 2000.

While the numbers of women in the workplace have changed, one thing that has remained constant is the difficulty in balancing family and career. Ask any working parent, particularly mothers, and they will tell you that there are never enough hours in the day when it comes to the children. We all know the countless women who spend hours chauffeuring their children from one event to another. There are always school plays, baseball games, dance recitals, PTA meetings, Boy Scout and Girl Scout meetings, doctors visits, school field trips, dental appointments—all in need of a parent's company. This list does not even cover household errands like: Going grocery shopping, picking up the dry-cleaning, running to the pharmacy to get medicine for a sick child, or picking up the children from daycare.

It is about time for the American workplace to recognize the need for working parents to have flexibility in their work schedules. I think the 58.2 million working women of America want this too. I also think the millions of children currently in daycare deserve to spend more quality time with their mothers.

According to the U.S. Department of Labor, the No. 1 issue women want to bring to the President's attention is the difficulty of balancing work and family obligations. This is not surprising considering that since 1965, time spent with children has dropped 40 percent.

The Family Friendly Workplace Act is good for working mothers because it provides choice and flexibility. For women who work overtime, this bill would allow them to choose time-off or comptime instead of receiving pay for their overtime work. For example, an employee could accrue up to 240 hours of comptime which could be used to attend a child's soccer game or school play.

For the majority of women who do not work overtime, this bill provides for flextime in the form of biweekly work schedules and flexible credit hours. With biweekly work schedules, a mother could schedule 80 hours over a 2-week period in a way that would let her have every other Friday off to spend time with her children.

With flexible credit hours, a working mom could accumulate up to 50 hours of paid time-off. If her child gets sick, she could then use some of her banked hours to stay home and care for the child. The idea of flexible work schedules is what women want—81 percent of women support more flexible work schedules like those this legislation would make possible.

I support this bill because it is voluntary. Nothing in the bill requires employees to adjust their work schedules. Nothing in the bill requires employers to implement comptime or flexible hour programs. Instead, this legislation encourages employees and employers to work together. There are tough penalties in the bill to prevent

employers from coercing or intimidating employees. An employer cannot force a worker to take comptime instead of paid overtime.

In listening to the debate on the floor, I am appalled by the opposition to this bill by the Democrats and the labor unions.

Labor unions of the United States have a problem with flextime. Frankly, if we end this debate with American women asking: What are the labor unions doing in this mess? Why are they interfering?—I am afraid, in the final analysis, the labor unions will find out they were working for the wrong cause.

I do not understand what is wrong with giving parents flexibility in the workplace to spend more quality time with their children. I also fail to see why my Democratic colleagues are against giving working women in the private sector the same luxury of work flexibility that women in the public sector have. Isn't it about time that the flexibility afforded to Federal employees for almost 20 years now be extended to the 80 million private sector employees in this country with this bill?

This bill is long overdue. It clearly makes it easier for the working mother to juggle the ever-challenging responsibilities of motherhood and work. I think it is high time for flexibility and fairness in the workplace. What is good enough for Federal employees is also good enough for private sector employees.

Madam President, these remarks are addressed to the Democrats on the other side of the aisle. It was not long ago that they took a great deal of pride in saying they were for family and medical leave. Everybody knows what family leave is. It is an effort to get businesses to give people time off when there is a family illness or when they need time off because something very serious has happened.

Frankly, family leave versus flextime is like an ant versus an elephant. Now, I do not know why I chose elephant, but in this case it is good, because the Republicans are for the real—real—family time.

Plain and simple, this bill modernizes the labor laws of America to meet the challenges of our day. There are no recessions. There is no depression. What we have is five times as many women working and raising children, and they need flexible time.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Missouri.

Mr. ASHCROFT. I yield 4 minutes to the Senator from Ohio.

Mr. DEWINE. Madam President, I thank my colleague from Missouri for the great job he has done.

In survey after survey, the American people endorse the ideas and the basic principles of this bill. More flexibility in the workplace, letting workers choose how they want to be compensated for overtime, letting workers decide what they need most—time with their family, time to study, time to relax; or time-and-a-half overtime pay to meet their financial obligations.

Madam President, an article in the Cincinnati Enquirer, I think, summarized it very well. ''A little flexibility would be a godsend to good workers who also want to be good parents.'' The article went on to say, ''It could benefit employers, too, who'd find it easier to recruit and retain productive workers.''

President Clinton has stated, ''We should pass a flextime law that allows employees to take overtime pay in money or in time off, depending on what is better for their family.''

Clearly, what we have here are the makings of a national consensus. I believe it would be a terrible shame if we let this popular and this necessary legislation fall victim to partisan wrangling here on the Senate floor.

Madam President, this is a proworker bill. The bill requires that all participation be voluntary. Let me say it again—voluntary. All participation under this bill must be voluntary. If a worker does not want it, he or she can just say no. No punishment, no retribution, no consequence. Under no circumstances will participation be a condition of employment.

Further, Madam President, the bill has powerful anticoercion provisions in very strong penalty language for any employer who violates those provisions. I believe, Madam President, we have already established some level of cooperation in this bill. For example, during the markup, Senators KENNEDY and WELLSTONE were very concerned about the status of unused accrued comptime hours in the event of a bankruptcy—a legitimate concern. They wanted to create stronger protections for employees. In the spirit of compromise, I asked our distinguished colleague Senator GRASSLEY, whose Judiciary subcommittee has the proper jurisdiction and expertise on this issue, to draft legislation to deal with these concerns. Yesterday, Senator GRASSLEY came to the floor and offered his amendment to improve this bill. Unfortunately, regrettably, we have not yet been able to vote on Senator GRASSLEY's amendment.

Madam President, we should build on this bipartisan spirit of cooperation, the bipartisan spirit of that amendment, and work toward passage of this bill. I believe, Madam President, we need to put the focus on the needs of those workers. We should look at this issue from the perspective of the working people who are going to be directly affected. Let us pass a bipartisan response to their very legitimate concerns.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. I yield 3 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 3 minutes.

Mr. HAGEL. Madam President, I wish to add my thanks to my distinguished colleague from Missouri for his leadership on this bill.

I rise today in support of the Family Friendly Workplace Act. I will read a letter from a small businessperson, Gary Tharnish, in Lincoln, NE, dated April 30, 1997. I will read this because I think it does, in fact, cut directly to the essence of what this bill is about. As my distinguished colleague before me made very clear, this is a voluntary bill. This is not a mandate. This is about flexible work time for our men and women.

I will read this letter from Gary Tharnish, the owner of Burton's Flowers:

> DEAR SENATOR HAGEL: It is my understanding that S–4, ''Compensatory Time'' will soon come to the floor for a vote. I would like to urge you to vote in favor of this bill. As a small business person my employees are begging me to offer them compensatory time. I explain to them I can not offer this. They do not understand the governments intrusion into their personal affairs. I would like to explain the situation an employee is in.
>
> Elaine is a mother of 3 children. This day and age it is so important for a mother to be home when her children get out of school. In order to make ends meet Elaine needs to work. Her options are a full time job and children home alone, or part time work. I offer her and 2 other women a part time job from 9:00 to 3:00 so they can be home when their kids get home. However in the summer they are not able to work. They would love to take their overtime pay and use it at that time. At Valentines Day and Mother's Day they receive a lot of overtime. They would love to use their ''time and a half'' hours to receive pay during the summer.
>
> Please, I am asking that you vote in favor of S–4. All Small Businesses and the thousands of constituents working for them will benefit.
>
> Sincerely,
>
> GARY J. THARNISH.

Madam President, this really does say it very effectively, very succinctly, and I think it encompasses what we are trying to do with this bill.

I ask my colleagues to spend some time in the remaining minutes that we have, reviewing their own constituencies, reviewing their own situations for their own workers in their States. I strongly urge cloture be invoked this afternoon and my colleagues vote in favor of the Family Friendly Workplace Act.

I yield the floor.

Mr. KYL. Madam President, the Senate once again has the opportunity to move beyond rhetoric and pass a bill that will really help working parents and their families.

This afternoon's cloture motion represents the second time those of us who support the Family Friendly Workplace Act, S. 4, have worked to invoke cloture—to move this issue to a vote. And yet, the minority has blocked consideration of this measure despite S. 4's wide public support and bipartisan support here and in the House.

The Family Friendly Workplace Act will help working parents balance the

demands of having a family and holding down a job. Working parents, particularly women, are looking for more flexibility in their schedules and more time with their children. In fact, according to a recent Labor Department report, ''the number one issue women want to bring to the President's attention is the difficulty of balancing work and family obligations.'' And, according to Lynn Hayes, author of ''The Best Jobs in America for Parents,'' when working parents are asked what they desire most in a job, a majority answer ''flexibility in scheduling.'' Similarly, according to a study commissioned a few years ago by Arizona's Salt River project of the Southwest region, a majority of parents with children under 13 are willing to trade salary increases for flexible time, leave, and dependent-care benefits.

There are other studies showing that Americans want flexibility in the workplace. In a work/family study conducted by Johnson & Johnson, for example, the company expected a need for child care to surface. Instead, ''the big issue that popped out was that of all the things that we would do as a corporation in support of parents, the biggest factor was that they wanted a flexible work schedule.'' And Federal employees, who already have this flexibility, support it in large numbers.

As the parent of two children and grandparent of four, I have seen first hand how difficult it can be to effectively balance work and family responsibilities today. Parents are working just as hard or harder than ever before just to make ends meet without gaining additional time or money for their families. That's because our tax laws take too much of working parents' hard-earned dollars. It is also because our outdated labor laws make it impossible for many employees to work together with their employers to develop schedules that better respond to the demands of work and family.

The problem was highlighted in a recent Newsweek cover story on the problem parents and their children encounter when parents do not have enough time to spend with their children. In the article, Kevin Dwyer, assistant director of the National Association of School Psychologists, cites research showing that, when parents do not have enough time to spend with their children, it leads to kids being ''more aggressive, more deviant and more oppositional.''

That brings us back to why passage of S. 4, the Family Friendly Workplace Act, is so important. S. 4 will give millions of working parents, and in particular an estimated 28.8 million women paid by the hour in the private sector, the flexibility to better juggle their responsibilities both as parents and employees.

By updating the Fair Labor Standards Act of 1938, the Family Friendly Workplace Act will allow hourly wage workers and their employees to develop flexible work schedules. Under the FLSA, hourly workers in the private sector are not allowed to develop flexible work arrangements with their employers, even though public sector employees and salaried private sector employees can.

In fact, as noted, Federal employees have been allowed to participate in flexible scheduling programs since 1978. It has worked well, and fully three-quarters of these employees report more time for their families and higher morale. Eight out of ten Federal workers surveyed by the General Accounting Office are pleased with the flexible scheduling option and want the program continued.

The Family Friendly Workplace Act will extend such opportunities to the private sector by guaranteeing, upon agreement between employer and employee, specific flexible work options.

First, it will allow hourly wage employees and their employers together to choose whether the employee will be compensated with time-and-a-half pay or, compensatory time-and-a-half time. Some families need additional income; some families need more time to juggle the demands of parenthood. Whereas current law provides many working parents with the opportunity only for extra pay, S. 4 provides a choice between increased pay or time.

The Family Friendly Workplace Act also provides, if agreed to by both employer and employee, a way for employees to bank overtime hours (up to six weeks of paid time) so that, when needed, employees will have a way to take extended leave and still receive a paycheck. Allowing employees to bank overtime hours, and be paid for those hours, is preferable for most workers, since many employees cannot afford to take extended unpaid time off to take care of a sick child or other dependent.

Moreover, under S. 4, at the end of the year, employers must cash out by paying the employee for the unused accumulated hours. The employee must also be able to cash out his or her accumulated leave within 30 days.

S. 4 also allows employees to develop biweekly, or flextime schedules. For example, under current law an employer cannot allow an hourly wage employee to work 45 hours one week in exchange for 35 hours the next week so that the worker can attend, for example, a child's baseball game, a parent-teacher conference, or doctor's appointment. S. 4 will change this rigid interpretation of the FLSA. It will allow workers the ability to arrange biweekly work schedules—the employee could work any combination of 80 hours over two weeks, if agreed to by the employer. Someone could work a long week and then a short week to best fit the needs of his or her family.

As a safeguard against abuse, S. 4 requires that any flexible work arrangement or banked overtime hours be agreed upon by both the employer and the employee, without coercion. Collective bargaining agreements would remain unaffected, and revised work schedules could be worked into a collective bargaining agreement.

Madam President, the Family Friendly Workplace Act will update labor law to allow for increased flexibility in the workplace and to better reflect the needs of today's families. As we all know, today's parents are under a great deal of pressure—to provide for their children financially and provide the time needed to raise a healthy child, capable of contributing positively to society. We in Congress should respond by correcting the law, when possible and without mandate, to improve the ability of parents to provide for their children.

I urge my colleagues in the Senate to vote to invoke cloture, pass S. 4, and send it to the President for signature.

Mr. GORTON. Madam President, I would like to speak briefly about the amendment I have introduced to S. 4, the Family Friendly Workplace Act. This bill, in my estimation goes a long way toward giving Americans more flexibility in how they fulfill their responsibilities to work and their families. S. 4 provides working Americans an option which is already available to public sector employees, the ability to choose compensatory time off in lieu of cash overtime pay. Further, the bill assures private sector employees that their choice to take either compensatory time or overtime pay will be protected. The use of coercion, intimidation, or harassment to force a private sector employee to take either compensatory time or overtime pay as a condition of employment is expressly prohibited under this bill. My amendment simply extends those same assurances to public safety officers.

In my State of Washington, Jim Mattheis, president of the Washington State Council of Police and Sheriffs, reports that compensatory time is extremely popular with the families of working law enforcement. Access to compensatory time has increased the morale, efficiency, and safety of law enforcement officers. More importantly, compensatory time provides law enforcement families some much needed flexibility in work schedules which are exceptionally stressful.

Unfortunately, my law enforcement constituents in Washington State report that the experience in the public sector has demonstrated a need to ensure that employees are free to choose whether to work for overtime pay, to use their compensatory time within a reasonable amount of time once it is earned, or to preserve their comptime banks.

Police officers provide a tremendous service to our communities. They put their lives on the line each day to protect our families and our communities. Public safety officers deserve to have the simple assurance that their choice of compensatory time or cash overtime pay is preserved.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. May I inquire as to the time remaining?

The PRESIDING OFFICER. The Senator has 7 minutes and 15 seconds remaining.

Mr. ASHCROFT. I am grateful for this opportunity to speak in behalf of the Family Friendly Workplace Act. Unfortunately, so many statements about it this afternoon do not reflect the act. They may reflect some attacks on the act or what someone has said about the act, but the truth is this act is a totally voluntary way for employees to cooperate with their employers to provide more flextime, more time for people to spend with their families.

This is not some new potential that has never been tried anywhere. We began in 1978 in the Federal Government to offer these kinds of benefits to Government workers. They have been tried in the governmental setting during the 1970's, all through the 1980's, and now through most of the 1990's. I have been in the Senate for a couple years, almost 3 years now, and I have not had a single Federal worker come to me and say this is a terrible means for abusing workers. When you survey those workers, the General Accounting Office, which surveyed the workers, found out that at a 10–1 ratio those workers said this was a very important way to help them accommodate the needs of their families.

The Senator from Montana said if Federal Government workers get comptime, so should other workers. Well, Federal Government workers do get comptime and so should other workers. That is what this bill is about. But Federal Government workers get flextime and so should other workers. And that is what this bill is about.

Now, I appreciate the patience of Senators on this flextime cloture vote. This is not the way we intended for this to unfold. We have made an effort to reach out to those on the other side of the aisle. We have conferred with them about constructing some amendments because they have raised concerns. Now, when they raised concerns, we sort of thought it would be appropriate if they would bring amendments to the floor to address those concerns. As a matter of fact, no amendment from the Democratic side was offered for consideration—no amendment was offered for consideration.

So in an effort to address the concerns, we developed amendments that would meet those concerns that the Democrats had been raising. As soon as we developed those amendments—and there were a number of Senators, and Senator GRASSLEY has already been mentioned on a bankruptcy amendment, there were two amendments about worker choice between comptime and overtime pay, and also amendments about so-called discrimination so to make sure in spite of the fact that the language that is already in the bill that prohibits an employer from selecting a worker to do overtime work because he is one that would only take one kind of compensation or another, we wanted to prohibit that. We not only wanted to reflect their concerns, we were willing to bring our own amendments. There were probably seven or eight amendments yesterday ready to come to the floor to assuage the concerns raised on the Democratic side of the aisle. And what happened? Instead of addressing this bill, they chose to filibuster this bill and talk about other things.

I am at a loss, when they talk about the need for two-way cooperation. The Senator from Louisiana comes today. She says she comes to offer amendments and offer thoughts. Well, I got the thoughts part. But we have not had any amendments offered. There has been an opportunity to offer amendments. If you really want to offer amendments, we want them. I stood here on this floor Monday afternoon and pled for people to bring amendments, to come and let us consider them. I stood here yesterday afternoon and pled, ''If you have amendments to this bill, please come and bring them. Let us correct any defects.'' And did they come? No.

Yet when we brought amendments to try and address the very problems that they mentioned, they filibustered. They talked about things much as they did today. With the 30 minutes allowed in the bill, the Democrats chose to spend most of the time talking about other things.

The truth of the matter is we have a tremendous opportunity to extend to the American workers some very important rights and benefits that are enjoyed by the boardroom folks, the salaried folks, the supervisors and managers of America, and all the Government workers of America have either comptime or comptime and flextime. In enactment after enactment on the floor of this Congress we have extended those rights both to local government workers, to State government workers, to Federal Government workers, and we have reinforced that, and the President has even extended those rights by Executive order. This morning, while I was at the White House for the signing of the IDEA law, the President pulled me aside and said, ''JOHN, there is nothing more important we can do for American families—nothing more important than to provide flexible working arrangements for American families.'' We do want to cooperate. My intention to cooperate will not be extinguished no matter what happens today.

I think what we have here is a filibuster to kill flextime without real debate and without offering real changes. It is a search and destroy mission targeted at killing flextime, flextime that would help the men and women of America accommodate the competing needs of their families and their home place.

Madam President, 57 Senators who now sit in this body, and Vice President GORE, voted to extend flextime benefits to Federal employees in the last decade and they voted to extend them to State employees and they voted to do it without anywhere near the protections we have put in this bill. The protections simply were not there, and they say that employees cannot make a decision about when they can use their comptime—that simply does not reflect this bill. The bill says that an employee cannot be forced to use his or her comptime at anytime, so the employee makes the decision, and if the employee makes the decision to cash it in, the employee can get the money back. Right now, there are 60 million hourly workers who are waiting for an opportunity to have comptime and flextime benefits.

I challenge Senators to match their words with deeds and to vote to give millions of Americans the benefits that Federal workers have enjoyed since the 1970's. Today's cloture vote is far more than it may seem. Every vote against cloture is a vote to kill flextime for millions of working American families.

No one defends current law as adequate to meet the needs of today's family, especially President Clinton. As I mentioned before, this morning President Clinton expressed to me his belief that flexible work arrangements are the most important thing we can do for families. The President wants a bill he can sign.

I, again, challenge Senators to be serious, start negotiating and stop stalling.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 4 p.m. having arrived, under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the modified committee amendment to Calendar No. 32, S. 4, the Family Friendly Workplace Act of 1997:

Trent Lott, James M. Jeffords, Sam Brownback, Susan M. Collins, Fred Thompson, Gordon Smith, Judd Gregg, Jesse Helms, John Ashcroft, Jon Kyl, Paul Coverdell, William V. Roth, Jr., Conrad R. Burns, Richard G. Lugar, Phil Gramm, Bob Smith.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the modified committee amendment to S. 4, the Family Friendly Workplace Act, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

I further announce that, if present and voting, the Senator from Vermont [Mr. JEFFORDS] would vote ''yea.''

Mr. FORD. I announce that the Senator from Rhode Island [Mr. REED] is necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. REED] would vote ''no.''

The yeas and nays resulted—yeas 51, nays 47, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—51

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Roberts
Brownback	Gregg	Roth
Burns	Hagel	Santorum
Chafee	Hatch	Sessions
Coats	Helms	Shelby
Cochran	Hutchinson	Smith (NH)
Collins	Hutchison	Smith (OR)
Coverdell	Inhofe	Snowe
Craig	Kempthorne	Stevens
DeWine	Kyl	Thomas
Domenici	Lott	Thompson
Enzi	Lugar	Thurmond
Faircloth	Mack	Warner

NAYS—47

Akaka	Durbin	Leahy
Baucus	Feingold	Levin
Biden	Feinstein	Lieberman
Bingaman	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Breaux	Graham	Moynihan
Bryan	Harkin	Murray
Bumpers	Hollings	Reid
Byrd	Inouye	Robb
Campbell	Johnson	Rockefeller
Cleland	Kennedy	Sarbanes
Conrad	Kerrey	Specter
D'Amato	Kerry	Torricelli
Daschle	Kohl	Wellstone
Dodd	Landrieu	Wyden
Dorgan	Lautenberg	

NOT VOTING—2

Jeffords	Reed

The PRESIDING OFFICER (Mr. STEVENS). On this vote, the yeas are 51, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

UNANIMOUS-CONSENT REQUEST

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Thursday, June 5, and that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted.

Mr. DASCHLE. Mr. President, I object.

Mr. LOTT. I move that the Senate stand in adjournment, and I ask for the yeas and nays.

Mr. DASCHLE. I note the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

QUORUM CALL

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 2]

Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Boxer	Frist	Murray
Breaux	Glenn	Reid
Campbell	Johnson	Rockefeller
Cleland	Kennedy	Sarbanes
Conrad	Kerry	Specter
Daschle	Landrieu	Stevens
Dorgan	Levin	Wellstone
Feingold	Lott	Wyden

The PRESIDING OFFICER. A quorum is not present.

The majority leader.

VOTE ON MOTION TO ADJOURN

Mr. LOTT. Mr. President, I move the Senate stand adjourned. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Vermont [Mr. JEFFORDS] and the Senator from New Mexico [Mr. DOMENICI] are necessarily absent.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. REED] is necessarily absent.

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—53

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith (NH)
Coats	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Coverdell	Kempthorne	Stevens
Craig	Kyl	Thomas
D'Amato	Lott	Thompson
DeWine	Lugar	Thurmond
Enzi	Mack	Warner
Faircloth	McCain	

NAYS—44

Akaka	Feingold	Leahy
Baucus	Feinstein	Levin
Biden	Ford	Lieberman
Bingaman	Glenn	Mikulski
Boxer	Graham	Moseley-Braun
Breaux	Harkin	Moynihan
Bryan	Hollings	Murray
Bumpers	Inouye	Reid
Byrd	Johnson	Robb
Cleland	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Torricelli
Dodd	Kohl	Wellstone
Dorgan	Landrieu	Wyden
Durbin	Lautenberg	

NOT VOTING—3

Domenici	Jeffords	Reed

The motion was agreed to.

ADJOURNMENT

The PRESIDING OFFICER. This vote demonstrates a quorum is present and the Senate stands in adjournment until 12 noon, June 5, 1997.

Thereupon, the Senate, at 4:51 p.m, adjourned until Thursday, June 5, 1997, at 12 noon.