

that this country understands that you need help, that you are not alone, and this legislation and this Congress, by enacting this legislation, wants to do that and do it quickly.

The Senator from North Dakota, Senator CONRAD, makes a very important point. I associate myself with that point—that between now and next Tuesday, or Wednesday, when we take that legislation to the floor of the Senate, I hope very much that we will see those who have been adding and probably those who might want to add additional amendments to decide not to do that on this very important bill.

Mr. WELLSTONE. Will the Senator yield?

Mr. CONRAD. If I can follow up on Senator DORGAN's comments, then I would be happy to yield further.

Last night I accepted an award on behalf of the Grand Forks Fire Department for the extraordinary heroism they demonstrated when this fire was burning out of control and they were prevented from fighting that fire as they normally would by the flood waters. And yet they took on an extraordinary circumstance; with live wires in the floodwaters, they could not know, as they moved to rescue people who were in those buildings, if they would be electrocuted, and they went forward, they did their jobs, and they rescued more than 20 people. And because of their bravery not a single life was lost. We lost some buildings. We did not lose a single life.

Last night the Firefighters of America gave to me, on behalf of the Grand Forks Fire Department, an award. I might say those firefighters who risked their lives to save others were doing it at the very time their own homes were being destroyed. Forty-three of those firefighters had their homes destroyed while they were saving other people's lives.

I can tell you, those people are wondering, why is it when we have a disaster that impacts our area people want to put on amendments that have nothing to do with disaster relief? They cannot understand it. We did not do that when the shoe was on the other foot. When other States were hit by disaster, we did not offer other amendments. I hope that cooler heads would prevail here and that we would find other vehicles for Senators to offer their amendments that they believe are important but leave the disaster bill clean so the people who are trying to rebuild their lives from an extraordinary set of disasters have a chance to rebuild their lives. That is not too much to ask.

Mr. WELLSTONE. Will the Senator yield for a minute?

Mr. JEFFORDS addressed the Chair. The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I wish to proceed to the motion to proceed to S. 4. However, I would ask unanimous consent that the Senator DODD be allowed to talk for 2 minutes and 1 minute to—

Mr. CONRAD. Mr. President, I had not yielded the floor.

Mr. JEFFORDS. I believe the Senator gave up the floor.

Mr. CONRAD. No; I had not yielded the floor. I was yielding for a question from my colleague from Minnesota.

Mr. WELLSTONE. I will be brief. Minnesota is one of these States, too, and every day we come here and speak briefly because we just keep trying to pitch away.

Could I ask one question? I think the Senator recognizes I would rather give a statement. I will not. But is it not true that when you talk to people in North Dakota—I certainly find this to be the case in Minnesota—they just do not understand at all how it can be that we just do not get this to them and how there can be this discussion of amendments having to do with budget cuts in education and budgets cuts in any number of other areas?

I say to the Senator, if I could get his attention for a moment, the most difficult thing for me is to try to explain to people how it could be we are at this impasse and that we cannot get the help to people as quickly as possible. In terms of how they live their own lives, people do not understand this kind of discussion about strategy and tactics and they feel as if we are just playing with their lives.

Does the Senator have trouble explaining to people why it is we cannot get this done for them?

Mr. CONRAD. I just say to my colleague by way of a quick answer that in Grand Forks two-thirds of the people are refugees. They cannot be in their own homes. They have been gone now for nearly 2 weeks. They still do not know in many parts of the city when they will return. And when they hear that there are amendments not related to disaster that are slowing down the disaster bill, they are just bewildered by what we are doing here. I must say there are times when I wonder what we are doing here. And again, I just hope that our colleagues would desist from offering amendments that are not disaster related to a disaster bill.

I thank the Chair and yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I will proceed on the motion to proceed but I would ask unanimous consent that the Senator from Connecticut be allowed to speak for 2 minutes out of order and that upon completion I be able to resume my management of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Connecticut.

#### DEBTBUSTERS BALANCING THE BUDGET

Mr. DODD. Mr. President, very briefly, I may not even take the 2 minutes. I just wanted to inform my colleagues that about a week ago, Congressman

CHRIS SHAYS, of Connecticut, and I hosted a program called Debtbusters with a group of 200 of our constituents. We invited people to come together to sit down in groups and try to balance the Federal budget in 5 years. This is an exercise designed by the Concord Coalition, and it is the first time such an event has been done on a bipartisan basis. I highly recommend it to my colleagues.

It is a fascinating exercise to watch people act as Members of Congress over a period of 2 or 3 hours, faced with the choices that many of us have to make here in Washington as we work toward a balanced budget by the year 2002. It was a tremendously worthwhile exercise. I want to commend the Concord Coalition for organizing it, for putting together the questionnaire. It was not perfect. Anyone who writes questions and makes choices obviously is going to bring some bias to it. But overall I found it to be rather fair and interesting. I would also like to commend the citizens of Connecticut, specifically the citizens of Stamford and the surrounding area, for taking the time out of their weekends to come together and work in such a constructive spirit.

It was curious to see the choices that people made. People, when they sat down and had to work with six or seven or eight other people from their community with many different ideas and issues, were able to compromise and come to conclusions and even give up on things they cared about very, very much. It was instructive. It did not solve the budget problem. But last Saturday I was impressed that, on a gloriously sunny day, people came out and spent the 2 or 3 hours to try and resolve these issues. I thought my colleagues might find it interesting.

As we are about to hopefully reach some sort of budget agreement ourselves, I believe it is worthwhile to appreciate what average citizens are able to do, just as I said, in a few hours on a bright sunny Saturday morning.

Mr. President, I thank my colleague from Vermont for making the time available and I yield back any time I have.

The PRESIDING OFFICER. The Senator from Vermont.

#### FAIR LABOR STANDARDS ACT AMENDMENTS—MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

Mr. JEFFORDS. Mr. President, we are now proceeding on the motion to proceed to S. 4, the Family Friendly Workplace Act. First of all, I wish to commend Senator DEWINE, who is the chairman of the subcommittee which very dexterously handled this bill in committee. I would also like to thank Senator ASHCROFT, the original author of the bill, who has done so much to bring, not only the attention of Congress to the problems we are addressing in the Family Friendly Workplace Act,

but also helped and assisted in bringing the attention of this body to the problems that are created by the current law.

I am pleased to be on the floor of the Senate today for the opening debate on the motion to proceed to S. 4, the Family Friendly Workplace Act. I would also like to acknowledge the hard work of many other colleagues and the effort that went into S. 4 by the committee who was able to bring out a piece of legislation which I am confident will have the support of the Senate.

I am extremely excited about this legislation because I believe it will positively affect the lives of millions of Americans. Today, there are more working single parents and dual-income families in America than ever before. The Family Friendly Workplace Act represents an important step in providing employees in the private sector greater latitude to balance the conflicting demands of work and family. This legislation provides men and women working in the private sector the opportunity to voluntarily choose compensatory time off in lieu of overtime pay as well as to voluntarily participate in biweekly and flexible credit hour programs. It does so by giving employees the opportunity to choose to take paid leave time instead of cash compensation for overtime worked and to work out more flexible schedules with their employers if it suits their needs. These same options have been available to State, local and Federal employees for some time and they have been enormously popular with these public sector employees.

Mr. President, since this bill was first introduced, it has met with opposition. I believe the opposition stems from the political positions of big labor unions rather than the needs of working men and women. I imagine that S. 4's opponents are concerned, in part, because it is the first piece of legislation in nearly six decades that makes any significant modification to the Fair Labor Standards Act of 1938.

While I understand the concern of S. 4's opponents, I believe that it is misplaced. The Fair Labor Standards Act was, and still is, an important piece of legislation because it provided much needed protection to American workers at the time when their welfare was often disregarded, in the horrible period of the Depression. While the principles behind the Fair Labor Standards Act have not changed, its stringent provisions make it difficult to accommodate the needs of today's work force.

Since the enactment of the Fair Labor Standards Act in 1938, there have been considerable changes in our Nation's economy, labor market conditions and labor-management relations. One of the greatest transformations has been in the composition of the U.S. labor force. More women are working than ever before. According to the Bureau of Labor Statistics, women now account for 46 percent of the labor

force. Between 1948 and 1995, women's labor participation rates almost doubled from 33 percent to 59 percent.

The increase of women in the workplace has had a significant impact on the day-to-day activities of the American family. The stay-at-home mom is now the exception rather than the rule. Indeed, in 1995, only 5.2 percent of all American families mirrored the traditional "Ozzie and Harriet" family structure of a wage-earning father, a nonworking mother, and two children. According to the Bureau of Labor Statistics, 62 percent of two-parent families with children have both parents working outside the home.

The makeup of the American work force has changed dramatically, yet few provisions of the FLSA have been updated to reflect these changes. The needs of today's work force are different than the needs of the work force of the 1930's. Although employees are demanding more flexible work schedules and compensation packages, the FLSA and its underlying regulations preclude employers from complying with employee needs.

This need for a change in the existing law was exhibited in a recent poll conducted by Penn & Schoen for the Employment Policy Foundation. The poll indicates that 88 percent of all workers want more flexibility through scheduling and/or the choice of compensatory time. Another national poll revealed that 65 percent of Americans favored changes in the labor law that would allow for more flexible work schedules. It is not surprising that the private sector is demanding change. In a 1985 survey of Federal employees participating with flexible work schedules, 72 percent said that they had more flexibility to spend time with their families, and 74 percent said that having a flexible schedule had improved their morale.

Over the past several years, the committee has heard compelling testimony from workers about the difficulty of balancing work and family responsibilities. For example, Christine Korzendorfer, who works for TRW Systems in Fairfax, VA, testified that she works a lot of overtime hours. Her husband, who is self-employed, also works 7 days a week making caring for their two children a constant struggle. Ms. Korzendorfer said that while the overtime pay is important to her, having extra time off to be with her family is more important. She wants the choice to be able to take comp time off instead of overtime when it best fits her needs and her family's needs.

In addition, the committee heard from Sallie Larsen, vice president, Human Resources and Communication, TRW Systems Integration Group, about TRW employees' frustration with the rigidity of the current law. Ms. Larsen explained that it was important for her business unit to understand their employees' work patterns because the work patterns factored into how TRW bid for new work. To

meet the needs of its employees, TRW saw an opportunity to add flexibility for all of its salaried employees and managers in its work scheduling. As a result, TRW invented a program called the Professional Work Schedule which gives salaried employees the ability to participate in 2-week flexing, partial-day time off and additional time off. However, the restrictions of the Fair Labor Standards Act prevented TRW from offering the program to its hourly employees. Ms. Larsen testified that TRW's hourly employees were amazed to learn that it is a 60-year-old law that is substantially unchanged since it was passed that stands in their way of becoming a full member of the team.

When the employees ask, "Why am I treated as a second-class citizen?" TRW explains, "It is the law, not the company's unwillingness to offer the professional work schedule to them."

As I mentioned earlier, employees in the public sector have had this option since 1985, and it has been very popular. Unlike in the public sector, however, S. 4 would prohibit employees from forcing workers to accept comp-time off instead of being paid overtime as a condition of employment. That is a change from the public law. In fact, under S. 4, an employee's participation in any flexible work arrangement would be totally voluntary. We have worked hard on the language since its introduction to make this crystal clear and to provide strong penalties against any employer who coerces, intimidates, or threatens a worker into accepting such an agreement.

This is true flexibility for workers and not the heavy hand of the employer. Providing families more flexibility in the workplace to help meet family needs should be a bipartisan goal. In the last year, President Clinton has acknowledged the importance of work force flexibility. For instance, in his recent State of the Union Address the President said, "We should pass flextime so workers can choose to be paid overtime in income, or trade it for time off to be with their families."

Because S. 4 will assist American workers to balance the needs of an evolving work environment and quality family time, I urge all my colleagues to join me in supporting this bill.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think, since this is the Ashcroft legislation, the Senator should be entitled to make the first statement on it.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I urge my colleagues to join us in moving to consideration of S. 4, the Family Friendly Workplace Act. It is an act which would help us accommodate the needs of families by recognizing that there are competing stresses. Most families feel two important stresses in their lives: One, the need to be with their families and to do for their families what their families require; the

other is to provide resources, financial resources, for the family. These two stresses have put us in a unique condition, in terms of the way families operate. In the 1930's, when we enacted the Fair Labor Standards Act, it was clear that very few families found both parents as wage earners. As a matter of fact, in the 1930's, only one out of every six women with school-aged children worked outside the home.

We have seen these two stresses—the requirement to spend time with our family and the requirement to provide financial resources in order to support our family—drive both parents in many situations into the workplace so there is this tension that exists in the workplace. It is a tension that relates to how we accommodate our families at the same time we provide the financial resources for our families. That being the case, the sponsors of S. 4 sought to find a way that we could say to families: We understand how important it is to you to get the financial resources to support your children. We understand how much you need to spend time with your children. Finally, we want to say to American families that we understand how important it is that you spend time with your children without sacrificing the financial resources that your family needs. The solution—we thought it best to provide a way for people to be able to work flexible work schedules.

This is not a way for people to take a pay cut or to lose resources. We already have the Family and Medical Leave Act, which allows people to take a pay cut in order to meet a family emergency. But public policy in this country should not require American workers to take a pay cut in order to be a good mom or dad in this country. Most people have the understanding that they want to be able to both meet the financial needs of their family and meet the social needs that are attendant to being a mom or dad. That is what this bill would do.

This bill would simply allow flexible work schedules to be arranged, when the employee and the employer agree—when there is agreement on both parties—it cannot be a coerced agreement. The bill provides specifically, that if there is coercion—either direct or indirect coercion—that there are enhanced, heightened, and substantial penalties involved. Therefore, when there is a voluntary agreement between the employer and employee, the employee in overtime situations can opt to take time-and-a-half off instead of getting time-and-a-half pay. And, where there is an employee who does not get overtime work regularly, and that happens to be most of the hourly workers in the country—the vast majority of citizens do not get overtime work. In those settings, where an employee never has an opportunity to earn overtime compensation, there should be an opportunity for people to say to the boss, "If I work an extra hour this week, calling that flextime, can I take an hour off

next week when my son or daughter is going to get an award at the high school and I need to take an extended lunch hour? Can I take some time off next week if I need to go take a group of kids to the soccer game? I will work the hour this week."

Americans really are not aware that that is against the law for hourly workers right now. For an employer to trade with an employee an hour in 1 week, and say you can make it up in the next week, if the hour in the next week puts the person over 40 hours—it simply is illegal to make that up on an hour-for-hour basis. If you want to take the hour off this week and make it up next week, it is now a responsibility of the employer to make it up at a time-and-a-half basis. So you have to pay time and a half. Most employers cannot afford that, so they do not have that kind of flexible working arrangement. It is pretty clear to me that most Americans would like to have the opportunity to swap an hour, sometimes, one week for an hour the next week. Under this bill, if the employer asked, suggested, or even hinted that he wanted an employee to work over 40 hours in a week, the employee would be entitled to overtime pay. In order to bank hours on an hour-for-hour basis, the employee "initiate and request" the ability to work the additional hour.

So, there are a number of components of this bill, all of which are designed to relieve the stress of working families, all of which are designed to give Americans more time with their families. These provisions are designed to do it without forcing you to take the time off without pay. The real challenge we have in our culture is to continue to sustain our families financially but also to continue to sustain our families in their abilities to do the kinds of things they need to do together. What is important to note is that, in addition to the overtime provision, which can be compensated at time and a half, there is also the flex-time provision of the bill which attends to workers who are not normally able to get overtime work.

The Census Bureau collects data on a regular basis. Out of their data they collected in 1996, the data revealed that only 4 percent of working women who work on an hourly basis reported that they get regular overtime pay. It would be fine for those women if they could take that overtime and convert it to time-and-a-half off. But let's be serious. If we were only going to address the stresses and tensions that exist in the families of that 4 percent of the work force, we are not really going to do much to improve the lives of very many people. We need to be able to address this tension and this stress that exists in the work force generally. That is why it is important to offer the flex-time parts of this bill, which allow a person to say, "I will work an extra hour this week in return if the boss will let me take that hour off next week, or vice versa."

Those are the kinds of provisions that have been available in the public sector for the last 20 years. In 1978, sponsored by Congresswoman Ferraro, of New York, and Congresswoman Schroeder, of Colorado, we enacted the law in the Federal system which provided for flexibility in employment for Federal workers. The same provisions, which we now are offering before the Senate, ought to be extended to workers around the country in the private sector. What is interesting is that the system has worked so well at the Federal and local level. As a matter of fact, the General Accounting Office wanted to see what the impact of having these kind of work rules was on governmental performance, on morale of workers. When the General Accounting Office surveyed the workers they found out that workers approved or expressed their appreciation for this kind of working arrangement at a 10-to-1 ratio. So, for every 1 worker here who said, "I am not enthusiastic about this, I do not really care for it," 10 workers said they approved it.

Frankly, you cannot get that 10-to-1 ratio of workers to agree that today is Thursday afternoon. That is an overwhelming endorsement. That is a clear statement by workers, the workers themselves—union workers, nonunion workers—that this system works.

One of the features that is allowed in the Federal Government system that would be allowed and available in the private sector under this bill would be the ability of workers and their employers, upon the agreement and voluntary—voluntary consent of both parties, to schedule work over a 2-week period to average 40 hours a week. This was extremely popular in the Federal Government, because it allowed people to work 9 days in the 2-week period instead of 10 days in the 2-week period. Working 9 days in the 2-week period really meant that workers had every other Friday off, so they would work 8 days at 9 hours a day for 72 hours and then the ninth day they would work 8 hours. That took them to 80 hours. Then, with that in mind, having worked 80 hours in the 2-week period, 45 hours in the first 5 days and 35 hours in the next 4 days, those 2 weeks together constituted 80 hours. And each second week, Friday would be off.

The opportunity is apparent, here, in terms of the ability to spend time with your children; the ability to tend to things that can only be done during business hours. This is one of the reasons, when Federal employees are asked about the program, they endorse it overwhelmingly. It is one of the reasons why unions in the Federal arena insist on these provisions, these capacities, these flexibilities. It is one of the reasons why individuals in the work force ought to really have this opportunity in the private sector.

Having worked flawlessly for the last 20 years, increased productivity, built morale, and been endorsed by workers overwhelmingly, it is time for us to say

to the work force generally: This is something you should have. Federal workers have it. It is time that ordinary workers in the private sector have it. I should not say "ordinary" because I do not want to suggest that the other workers are extraordinary. The point is, salaried workers have had flexibility for a long time. The boardroom has had flexibility for a long time. The guys who run the company never seem to have difficulty in being able to take time off to see their kids get an award, or even to play a game, or a round of golf, or perhaps link up with some of their friends at a predetermined time for a fishing trip or outing, or to even be volunteers, when it is necessary, to help their communities.

But the hourly individuals are the ones who have faced that challenge. Of course, the people who have felt the squeeze the most, I think, are the moms who have gone into the work force since the 1930's. There are 28.8 million working women who work by the hour in this country and it is time for us to say to them: You should be entitled to some of the same flexibility that people in the boardroom or at the head of the company or the salaried workers of America have had. It is time for us to say to them you should be entitled to some of the same opportunities to work with your family as the people who work for the Federal Government have had. It is time for us to say to them it would be appropriate for you to have the same capacity to volunteer and to help your children in their athletic activities, or academic activities, or extracurricular activities, as the people who work for State and local governments have had.

It is time to give the average worker in the United States of America, that individual who has served, working hard on an hourly basis, these same benefits that have been enjoyed by individuals who have worked on a salaried basis and have worked for the U.S. Government, for State governments, or for local governments.

Some individuals have indicated that perhaps it is enough for us to just address the issue of comptime. I would just suggest, because comptime is available only to workers who work overtime regularly, that we ought to think carefully about limiting the flexible working arrangements that we think ought to be available to American workers to those who are normally endowed with the right to work overtime.

Overtime is not the prerogative of most American workers. Estimates run as high as a third of the workers get regular overtime. The census clearly indicated only 4 percent of the hourly workers who were women in 1996 said they got regular overtime.

What if you would triple that number from 4 percent to, say, 12 percent? You would still only have one woman working by the hour out of eight who received regular overtime. If we are going to provide flexibility to only one

out of eight women, it seems to me we have missed the boat; or only two out of eight men, because twice as many men work in jobs that get overtime as women do.

If you take the universe of people who get overtime work, it is a 2-to-1 population in favor of men who have worked in the jobs that historically get overtime.

I do not think it is appropriate for us to try to limit what we do to individuals who have had the good fortune to find themselves in jobs where they would traditionally get overtime, especially when that means that it would only result in maybe one out of eight women in the work force working by the hour, having the flexible options, having the capacity to have an adjustable schedule the way people do in the boardroom, the way people do in State government, the way people do in the Federal Government.

I think it is time for us to say to America generally, "We understand it's tough to balance the competing demands of the homeplace and the workplace. We understand that when you take time off, you don't want to lose money doing so, because you wouldn't be working in the first place if you could afford to lose money by taking time off."

We need to say, "We understand you don't want to take a pay cut to be a good mom or dad."

We need to say, "We understand that you want to be a volunteer and you will need to have flexible working arrangements from time to time."

We want to build a framework that says to them, "If, indeed, those are your aspirations, here is the way you can accomplish them. At least you and your employer can together agree voluntarily that these kinds of things can be done."

I emphasize the word "voluntarily," because that is the way the bill would work. If there is coercion, either direct or indirect coercion, the bill provides for elevated, extraordinarily high penalties. It says, "If you are going to coerce workers, beware, you are going to have a doubling of the penalties you previously had in overtime settings."

Second, in order to provide a further incentive for employers, who are offering compensatory time off options, to not only allow employees to take the time when they need it but also to not see it as a cost savings, the bill provides that if an employee has chosen a comptime option, if at any time the employee changes their mind, the employee only has to say "Nope, I've changed my mind. I would like to have the money back instead of the time and a half off."

So, if someone had originally said, "I'll take time and a half off," thinking that would please the employer in some way, they can reverse that decision. In addition, if he believed he needed to accept the comptime, in lieu of financial compensation, it would be coercion and double current penalties could be assessed.

As an ultimate backup to make sure we don't have any abuse of the workers here, we have a situation built right into the structure of the bill so that at the end of the year, all the time and a half that is there as comptime is automatically paid as time and a half and at time-and-a-half rates.

So what we have here is a clear voluntary situation. You do not have any incentives for any employer to distort the voluntarism. You have employers who really understand that, if they can help employees be good parents, they are going to be better employees and, together, with a happier employer and happier employee, people are going to be able to meet the needs of their family without taking pay cuts. That it is a win-win situation. That is what we targeted. We built protections into the bill and structurally designed the bill, so that compensatory time can be converted quickly and efficiently. It is automatically converted if it is not used by the end of the year and we have provided elevated penalties in the event that there is a problem with any coercion, direct or indirect.

I might add as well, in the event the employer and employee in this measure do not agree to take time off as compensatory time, if there is no agreement on it, we fall back under the 1930's Fair Labor Standards Act. In other words, nothing is done to deprive any worker who wants to live under the terms and conditions of the law as it now exists from working under those conditions.

What we really have is an ability of the worker and the employer to choose to be more flexible and, if either one is dissatisfied, that choice is reflected in the continuation of the status quo: The 40-hour week continues to be in existence; the required payment of overtime at time and a half payment instead of time and a half off continues in existence. So the ultimate security for any worker is that the worker can choose to operate in the same framework of legal protection that worker has at this very time.

This is an attempt to say to the work force, "We know that you are stressed. We know that the demands of your house and the demands of your job are competing, and when they collide, if possible, we would like to give you the option of being able to work it out with your employer and to work it out in a framework of protections that are likely to result in your being able to succeed."

We are doing this, not with some program we have dreamed up, not with some novel, untested, untried set of opportunities. We are doing this with a program that has been in existence now since 1978, almost 20 years, in the Federal Government. We are doing this by proposing for the private sector the kind of flexible working arrangements which have been available in the public sector and which workers in the public sector have endorsed at a 10-to-1 ratio, which workers in the public sector, be

they union workers or nonunion workers, are eager to continue, and when contracts are negotiated, there is an insistence that these kinds of provisions continue to be available.

I might just add one other thing about the President and his involvement. The President, in his campaign, called for "flexible work arrangements" for citizens. He used that very language. He used that language again in his State of the Union Message. He talked about "flexible working arrangements." When the President of the United States, President Clinton, came into office, he noticed that there was a small group of executive branch workers who didn't have the privileges that were accorded to the rest of the Government workers regarding flexible working arrangements and compensatory time. When the President made that observation, he did the right thing. The President said to the rest of the workers, "I'm going to extend the benefits of these kinds of working relationships by Executive order to you as Federal workers, because these are the kinds of things which will help you do a good job, they will help us get good work, and they will help you resolve the tension between your family and your workplace."

What was good for the President of the United States in his campaign, what he remarked on favorably in his remarks to the Congress, what he indicated was appropriate by way of Executive order, is good for the American people.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, the Republican leadership is pushing its so-called compensatory time bill, but a better name for it is the Paycheck Reduction Act. The bill has four fatal flaws:

First, it is a pay cut for large numbers of workers who don't deserve that harsh treatment from either Congress or their employers. The bill eliminates the guarantee of pay for overtime work for 65 million employees. The Republicans have openly admitted their pay-cut strategy. When the National Federation of Independent Businesses testified at the Senate Labor Committee hearing on the bill, they said "Small businesses can't afford to pay overtime." That's why they support this legislation.

Vast numbers of today's workers depend on overtime pay to make ends meet. Half of those who earn overtime take home \$16,000 a year or less. More than 80 percent earn under \$28,000 a year. American workers cannot afford this Republican pay cut.

Second, the bill cuts other benefits. Health and retirement benefits are based on the number of hours worked by employees, and their benefits would be slashed too. Comptime hours do not count as hours worked, so employees will lose health coverage while they are working, and much-needed pension benefits after they retire.

Third, the proposal abolishes the 40-hour week. Employers could require

employees to work up to 80 hours in a week without receiving overtime pay. A company could schedule a worker for 60 hours in 1 week, and 20 in the next, all without a penny of overtime pay. This isn't a family-friendly bill—it's a family-enemy bill.

Fourth, the bill provides no employee choice. The employer chooses who works overtime and when an employee can use comptime. The employer can assign all overtime work to employees who will accept comptime instead of overtime pay. Those who need overtime pay to make ends meet will no longer receive it. The bill also lets the employer decide when employees can use the comptime they have earned. If an employee wants to use comptime to take a child to the dentist, or attend a school play, the employer is free to deny the request.

If the Republicans are genuinely interested in helping working Americans deal with family needs, they should support expansion of the Family and Medical Leave Act. That law has been a resounding success since its enactment in 1993. It gives employees up to 12 weeks of unpaid leave a year to care for a newborn or newly-adopted child, or to deal with a serious medical condition of the employee or close relative.

Two proposals to expand the act are now under consideration in Congress. Senator DODD proposes to apply the law to all firms with 25 or more employees, instead of 50 or more employees under current law. This step would enable 15 million more workers to receive this important benefit. Senator MURRAY proposes to offer 24 hours of leave a year for employees to attend parent-teacher conferences and other school events.

Those who support genuine family-friendly policies know that the Family and Medical Leave Act works well for working families. I urge my colleagues to support its expansion and to reject the Republican comptime Trojan horse.

I know there is significant interest in the idea of legislation that would allow an employee to make a genuinely voluntary choice to be compensated for overtime work in time off rather than in pay. But, this is not that bill. Even those of you who support the concept of voluntary comptime should oppose S. 4. S. 4 contains four major provisions, each of which is designed not to help employees, but to allow employers to reduce the amount of money they must pay their workers.

This bill isn't meant to help employees juggle their work and family obligations. Instead, it is designed to help employers cut workers' wages. Forcing employees to accept time off instead of overtime pay is a cut.

While the legislation purports to let employees make the choice between overtime pay and comptime, it does not contain the protections which are necessary to ensure that employees are free to choose and are free from reprisal.

Under S. 4, it is the employer, not the employee, who decides what forms of

comptime and flextime will be available at the workplace. There is no freedom of choice for the worker.

There is nothing in this bill which prevents an employer from discriminating against a worker who refuses to take comptime instead of overtime pay. Under S. 4, an employer could lawfully deny all overtime work to those employees who want to be paid and give overtime exclusively to workers who will accept comptime in lieu of pay. There is no freedom of choice for the worker.

The employee may want a particular day off so that she can accompany her child to a special school event or to a medical examination at the pediatrician. However, nothing in this legislation requires the employer to give the employee the day she requests. This bill gives the employer virtually unreviewable discretion to determine when a worker can use her accrued comptime. Here, too, there is no freedom of choice for the worker.

S. 4 contains much more than a badly flawed comptime provision. It contains a section entitled "Biweekly work program" which literally eliminates the 40-hour workweek. The bill substitutes a provision which would allow an employer to work his employees up to 80 hours in a single week without paying a cent of overtime. The employees would not even receive 1½ hours of comptime for each extra hour they worked.

The next new provision is entitled "Flexible credit hours." Under this provision, an employee who works hours that are in excess of the basic work requirement would no longer be entitled to overtime. Instead, the employee would get an equivalent amount of hours off at a later unspecified time. Under existing law, the employee would be paid time and a half for such excess hours. Under comptime, the employee would at least receive 1½ hours of time off for every excess hour worked. However, flexible credit hours purport to offer the employee a new, innovative alternative—work the excess hours but receive only 1 hour off for each excess hour worked. I cannot imagine how any employee could turn down an offer like that. Does anyone in this room honestly believe an employee who was not being coerced would choose to participate in such a plan?

The last feature of this bill appears on page 43. We haven't discussed it and I would urge each of you to take a closer look at it. It applies to salaried employees. Under current law, they do not receive overtime when they work extra hours and their pay cannot be deducted for an absence of less than a full day. S. 4 proposes to change that rule. Salaried employees would still receive no overtime but they could be subject to deductions in their pay if they were absent. In other words, the fact that they could have pay deducted if they missed 5 hours of work in a week can no longer be used to prove that they are hourly

employees entitled to overtime if they work 5 hours extra another week. Is that fair? Is that enhancing worker's freedom of choice.

When you analyze what S. 4 would really do for American workers, it should be entitled "The Pay Reduction Act of 1997."

The essence of a genuine comptime bill is the creation of new options for employees, not employers. As you know, President Clinton has endorsed comptime legislation. However, even as a supporter of the principle of comptime, he has stated that he would be compelled to veto S. 4. A letter sent to this committee by the Acting Secretary of Labor at the direction of the White House sets forth the failings of this legislation clearly:

Any comptime legislation must effectively and satisfactorily address three fundamental principles: real choice for employees; real protection against employer abuse; and preservation of basic worker rights, including the 40-hour work week. President Clinton will veto any bill that does not meet these fundamental principles.

While the President has called for and strongly supports enactment of responsible comptime legislation, he will not sign any bill—including S. 4—that obliterates the principle of time-and-a-half for overtime or that destroys the 40-hour workweek. Workers—not employers—must be able to decide how best to meet the current needs of their family.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, my colleague from Minnesota indicated he was ready to proceed. Let me see if he is ready. For the moment, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WELLSTONE. Mr. President, I thank my colleague, Senator DEWINE, for his courtesy.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Anne Wilson, who is interning with us, be granted the privilege of the floor during this debate.

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

Mr. WELLSTONE. Mr. President, I will actually be relatively brief for now. We are going to have time for plenty of discussion and debate. In its present form—and I appreciate the words of my colleague from Missouri—this piece of legislation might better be called the Paycheck Reduction Act. I will just go over some bullet points and marshal evidence behind each.

Pay cut eliminates the guarantee of pay for overtime work for 65 million American workers. Mr. President, we passed the Fair Labor Standards Act over half a century ago. It was an important piece of legislation. It rep-

resented real progress for working families. The idea was that if you worked over a 40-hour week, you would get paid time and a half. That is an important principle. This piece of legislation essentially turns the clock back over a half a century. In a way it is a non-starter for that reason alone.

Interestingly enough, we had an amendment when we were marking up the bill in committee which essentially said, at least don't give the employer all the power so that an employer is in a position to say to someone, Look, we will not give you time and a half compensation for overtime work. We will give you flextime. So the employer is in a situation to say to a worker, OK, you worked an hour over; we'll give you a flextime hour—that is hour to hour—but we won't offer flexible compensation at time and a half. That was voted down.

Benefits cut. Health and retirement benefits based on hours worked would be slashed.

Abolishes the 40-hour week. Employee could work up to 80 hours in a week without receiving overtime pay. That is just unbelievable. Everybody should understand this. This is a sacred principle. The reason we passed the Fair Labor Standards Act is that many employees, some the very employees Senator ASHCROFT was discussing, do not have a lot of clout vis-a-vis their employers.

The idea was to have some basic protection, so that if you were working hard to support a family and you worked overtime, you would get paid overtime. That assurance is abolished. Under this legislation, an employee could be working 50 or 60 hours a week or more and not get paid any overtime for that. To move away from the 40-hour week turns the clock back about a half a century.

Finally, No employee choice. Employer chooses who and when. Employer determines who works overtime and when an employee can use comp time. This is, in many ways, one of the most troubling features of this legislation. Please remember, and we had testimony in our subcommittee on this, there are companies that really work well with employees. They have good partnerships, and there are situations where an employee works 4 days a week, 10 hours a day and takes off Friday. That can be done now. You do not need to overturn the Fair Labor Standards Act. You do not need to overturn the 40-hour week. That can be done now.

Or what people can do is work 9 hours a day as opposed to 8 hours and then work half a day on a Friday or on a Monday. That can be done now within the existing framework of labor law.

Or people can go in at 7 and come home at 3 or come in at 10 and go home at 6. There are all sorts of flexible arrangements. Right now, employers can give their employees this flexibility if they so desire. The problem is, a lot of employers do not do that. But it has

nothing to do with the basic principle of the 40-hour week, and the principle that if an employee works overtime, he or she should get time and a half pay. This legislation undercuts that.

Mr. President, that hardly represents a step forward for working people in this country. That is why, in its present form, this is the Paycheck Reduction Act. And that is why we are adamantly opposed to it. That is why most people in the country will be opposed to it when they learn all the provisions in the legislation.

This is my last point for today. Mr. President, what is interesting about this is it is all done in the name of choice. But you know, we had some interesting amendments in committee that speak to this question.

I offered an amendment which said we have a Family Medical Leave Act right now which says that there are up to 12 weeks of unpaid leave in the case of sickness of a child or an adult, so why don't we say this: If an employee has banked 10 hours of earned comp time, and she calls her employer and says, "Look, I need that time off because my child is sick," she gets it automatically. The employer does not get to shut her down and say no. If you want to give the employee choice, do not give all the power to the employers. But, Mr. President, that amendment was voted down.

We had another amendment which took some parts of the labor force—for example, garment workers—and said, we have a lot of people right now who, whatever the law of the land says, are not even getting paid minimum wage or earned overtime. We have a lot of examples of forced and unpaid overtime, and we have a whole backlog of unfair labor practices. So couldn't we at least exempt some sectors of the work force where we know people are vulnerable and somewhat powerless and, as a matter of fact, have been exploited by some employers? Thank goodness most employers are not that way. But that amendment went down as well.

Mr. President, one other example. We had discussion where we said, wait a minute, we have this backlog, we have all sorts of potential for abuse. Can't we at least have a commitment of resources so we have some enforcement?

You are going to need more people within the Department of Labor to enforce this to make sure that people are not forced to work overtime without overtime pay because no matter what you say in theory—about this being voluntary—the vast majority of people who work can tell you right now they do not always have a lot of choices. A whole lot of people put up with really awful working conditions. They put up with unsafe working conditions. They put up with situations that none of us would want to be in. But they do it to put food on the table. So couldn't we at least provide people with some protection? That is not here either.

Mr. President, with all due respect, this bill is hardly giving people more

flexibility. That is the way it sounds at first blush. But what really is at issue here is you essentially overturn portions of the Fair Labor Standards Act, you overturn the 40-hour week, you put people in the situation where the employer—and in most situations the employer has the power—is going to say to people, “Hey, we’re pleased to give you flextime,” or, “We’re pleased to give you an hour off, but it’s hour for hour, even if you worked overtime. Even if you’ve banked hours, we’re not going to give you time and a half compensation when you want and need it.”

Let me tell you, the reason people work is because they need that pay to put food on the table. The reason you have so many families where both people work, both husband and wife, is because they need the income.

I do not think people are interested in seeing their paycheck cut. I do not think people are interested in being put in a situation where they no longer receive time-and-a-half overtime compensation. I do not think people are going to be pleased with a piece of legislation that abolishes the 40-hour week. And I do not think people are going to be pleased with a piece of legislation which sounds great in theory about employee choice, but does not have any of the provisions in it which would really guarantee that that would be a reality.

So, Mr. President, I have a budget meeting, and I apologize, because I like to debate with my colleague from Missouri. I promise him I will be on the floor whenever we get back to this, to hear what he says and go back and forth—and with my good friend from Ohio. These two are my good friends. We do not always agree, but they are two Senators I really do like and respect. I feel badly about speaking and leaving, but only because we have this budget meeting right now. In any case, Mr. President, what I said was so compelling, what I said is irrefutable and irreducible, and I do not think they could possibly respond to it anyway.

Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I thank my colleague from Minnesota for the kind comments. I am sorry he is leaving, but he has an important mission on the Budget Committee. I have debated this issue on a number of different occasions in committee. But I must say that he is particularly eloquent today, because I do not even recognize this bill after he finished describing it. It is an entirely different bill than the bill I thought we passed out of committee. And I am sure many of the points that he raised today are going to be points of contention as this debate continues over the next few weeks.

Mr. President, let me first congratulate Senator ASHCROFT and Senator KAY BAILEY HUTCHISON for the great work that they have done to bring this bill to the floor today. In the House,

my colleague from Ohio, Congresswoman DEBORAH PRYCE, has done tremendous work on this bill.

This is a bill that I am particularly proud to have been involved in to help bring to the floor today, because I think it will help bring the American workplace into the 21st century and, more importantly, bring the underlying labor law into the 21st century and make both more conducive, more understanding, to the changing nature of American society and of the American workplace, particularly of the American family and how people really live today.

In the hearings that we held in the Senate Labor and Human Resources Committee on this bill several months ago, we heard facts that substantiate the monumental changes that have taken place in American society in this century, particularly in the last 20 to 25 years, changes that make it absolutely essential that we pass this legislation.

Mr. President, today more than 60 percent of married women work outside their home; 75 percent of married women with school-aged children work outside the home; 75 percent of married couples with children have both spouses working.

We compare these statistics, Mr. President, to the situation in 1950: 11 percent in 1950—11 percent—of married mothers with children under the age of 6 worked outside the home. Today, almost 50 percent do—47 percent.

In less than half a century—in my lifetime—we have gone from around 10 percent of these mothers working outside the home to nearly half of them. This is truly a historic social change. I believe the sponsors of this bill in both the House and the Senate believe that it would be a good idea for the dynamics of the American workplace to finally catch up with the dynamics of our society.

It would be a good idea, Mr. President, for our laws to reflect the reality of how people live today. Put simply, Mr. President, there are more single parents and dual income families in our work force today than ever before, and their numbers are growing. In today’s society, employees are faced with a difficult task of balancing their obligations to family, to spouse, to children, to work, school, other important things.

Mr. President, it is significant—it is significant—that for many years Federal, State, and local governments have enjoyed the statutory ability to offer their employees a flexible work schedule, thus allowing them an opportunity to spend more time with their families or more time to continue their education.

Mr. President, as our colleagues consider this bill, I ask them to consider how many times they have had a Federal employee, when they have been back to their State, come up to them and say, “I don’t like this. I don’t like the comptime. I don’t like the flexibil-

ity that the law gives me today.” They have had this, Federal workers have, for several decades. State employees have.

I was Lieutenant Governor of Ohio for 4 years. I do not recall one State employee ever coming up to me and saying, “I don’t like the flexibility that we have.” In fact, just the contrary. Everyone who has ever talked to me about it has said, “I enjoy it. I like it. It helps my family.”

Mr. President, there are actually antiquated Federal laws which are still on the books that are preventing some of the necessary changes in the non-Government workplace. This is what this bill does. It sweeps away some of these old laws that prohibit workers from doing what they want to do.

Let us say, for example, a mother wants to take her daughter to a doctor’s appointment. She wants to make up the working hours she missed by stacking them into other work days. Today, Federal law, written by Congress in 1938, says the employer cannot do that. The employer has to say to her, “No. I am prohibited by law from doing this. I want to do it. You want to do it. We are prohibited by law from doing it.”

Mr. President, that simply does not make sense as we approach the next century. Workers in this country need more flexibility.

Mr. President, earlier this month the Senate Labor and Human Resources Committee passed this bill, a bill that would reduce some of the stress on America’s working families by making the American workplace more family friendly.

As chairman of the Employment and Training Subcommittee, I handled this bill and we held several hearings. The hearings strengthened my conviction that this bill is long overdue.

Senator JEFFORDS, the chairman of the committee, was on the floor a few minutes ago and talked about Christine Korzendorfer, a woman, a mother of several children, who works at TRW. This is what she said, and I quote. She is talking about overtime pay. “Pay is important to me.” That is important. “However, the time with my family is more important. If I had the choice,”—if I had the choice—“there are times when I would prefer to take comp time in lieu of overtime. What makes this idea appealing is that I would be able to choose what option best suits my situation.”

Mr. President, that pretty well sums it up. Individual choice is really what this is all about. It is the Christine Korzendorfers of this country, the hard-working Americans, who know best what kind of work schedule fits their needs. Giving these workers the freedom of choice is the purpose of this legislation. The bill before us today, S. 4, the Family Friendly Workplace Act, will amend the Fair Labor Standards Act to finally provide employers and employees in the private sector with



the same benefits public-sector employees have enjoyed for many, many years.

The bill contains three options for making the workplace more flexible—compensatory time off in lieu of monetary overtime pay, biweekly work schedules, and flexible credit hours.

Participation, Mr. President, is voluntary. Let me stress this again and again. You are going to hear this word from me throughout this debate. It is voluntary. No one has to do it. If the employee does not want to do it, the status quo prevails. The employer has to want to do it, the employee has to want to do it before this law really even kicks in.

Mr. President, I think that most people would be shocked if they knew that current law prohibits, absolutely prohibits, employees and employers from making the types of arrangements and agreements that people in the public sector can do today.

If that law was not in effect today, if that law did not prohibit that type of arrangement, do you think, Mr. President, Members of the Senate, that anyone would come to the Senate floor and offer a bill to do that? Would anyone come to the Senate floor and offer a bill that said the Federal Government is going to step in and tell employees and tell workers in this country that, if you want to make an arrangement with the employer that allows you more flexibility in your life, that allows you to better decide when you are going to work, how you are going to work—does anybody think that bill would pass?

Does anybody think that the Federal Government, if it did not have that law in effect today, that we would want to put that law into effect? The answer obviously is no. I think it tells us something when we look at that answer and look at the question in that way. Such a bill obviously would never pass.

Mr. President, the Fair Labor Standards Act and its underlying regulations simply do not allow private-sector employers to meet the demands of their employees for more flexibility in various forms of compensation. As a result, working families are faced with tremendously difficult decisions.

For example, will a mother sacrifice hard-earned vacation time off to take her child to the doctor or to the hospital? Should she forgo the compensation to make sure her sick child is properly cared for? Should she try to run home for an hour here or 20 minutes there? Can a single parent afford to leave work early to attend a teacher conference, to help chaperone a class trip? Will a single parent ever find the time to pursue greatly needed continued education? These are the options that this bill will give.

I see, Mr. President, my colleague from Texas is on the floor. She has worked long and hard to bring this bill to the floor. I congratulate her for her great work. I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, thank you.

I want to thank Senators JEFFORDS and DEWINE and Senator ASHCROFT for their commitment to this bill. They have followed it through all the way from the beginning—Senator ASHCROFT, as the key sponsor, and Senators DEWINE and JEFFORDS, as the chairman of the subcommittee and full committee that shepherded this bill through because they believed so much in what this bill can do for the more than 60 million workers in this country, including 28 million women, who are paid by the hour.

I was just listening to what Senator DEWINE was saying, and I have to say, step back a minute and think about the fact that the Federal Government is saying to the hourly employees of this country, "You cannot go in and ask your employer to take off at 3 o'clock on Friday and work until 7 o'clock on Monday." You cannot do that because the Federal law says your employer cannot offer you that option. So if your child is playing in a soccer game or a football game on Friday afternoon at 3 o'clock, which many schools across our country do have in their schedules, you cannot go in and get that opportunity to see your child, because the Federal Government says you cannot do it.

Now, if you were a Federal employee you could do it because Federal employees have that option. If you are a salaried employee, you could do it. It is hourly employees who are not able to say, "I want to work two extra hours on Monday so I can take off at 3 o'clock on Friday."

Mr. President, all this bill does is give the same option to hourly employees that every Federal employee and every salaried employee has in our country. It is just amazing to me we did not do this years ago. It was only Senator ASHCROFT who came in and said, "Why have we not done this?" Many of us were not even fully aware of the impact our out of date labor laws were having on Americans' modern lifestyles.

What are our modern lifestyles? Mr. President, over two-thirds of the women who have school-age children in this country are working outside the home. When the Fair Labor Standards Act was passed, we had a lot of moms that could and that chose to stay home. Today, there are 58.2 million women in the workforce, and roughly half—28 million—are paid by the hour. The other half are salaried employees or self-employed. The biggest stress factor they have in their lives is the inability to find the time in the average day to do the things they need and want to do for themselves and their families. Working mothers and their children want to be able to share more of life's activities—to be able to go to the PTA meeting, the soccer game, the football game, and still be able to

make a full-time salary and make ends meet at the end of the month.

The Family Friendly Workplace Act will enable those working mothers to do just that. Senator ASHCROFT and I have made sure that these people who are working hourly are not going to lose their salaries because they do have budgets. They have to meet the mortgage payment. They have to meet the car payment or the rent payment. They simply cannot afford to take time off without pay, as the President and some Members of Congress have called for.

That is the beauty of this bill. It allows the employee to be paid, while adding flexibility to their work week.

Another aspect that Americans like so much about this bill is it would allow an hourly employee to say, "I would like to work 9 hour days and take every other Friday off work, with pay." Federal employees have this option. Salaried employees have this flexibility.

Mr. President, I think it is important to keep in mind that these scheduling options are all voluntary. There is nothing that requires an employer or an employee to choose any of these options. If any employee is asked to work overtime, that employee keeps the right to say "Great, I want time-and-a-half pay," end of story. But if the employee says, "I want to take time-and-a-half in paid time off and not outright pay now," or "I would like to go ahead and work the extra hours and bank that time so that when my child's soccer game is scheduled" that employee will have that option, in cooperation with the employer.

And because this added flexibility and free time for employees has been proven to boost morale and improve productivity, giving hourly employees these added freedoms becomes a win-win situation for employee and employer alike. In short, this bill makes imminent sense. My only surprise is that we did not update this antiquated labor law earlier.

I commend Senator ASHCROFT, I commend Senator DEWINE, and I commend Senator JEFFORDS for helping us get this bill to the floor so that we will be able to finally say to the 28 million women that are hourly wage working women and the 30 million hourly wage working men in America, "You now have the same freedom to schedule time to spend with your loved ones that the rest of the workforce enjoys." For the Federal Government to stand in the way of those two individuals and say, "No, you cannot do this because Big Brother Federal Government in Washington said 30 years ago when there were not very many working moms in the workplace, in a whole different era, that you could not do it." Mr. President, we must enter in to the 1990's and update our labor laws to address the needs of the struggling hourly wage families in this country." We are going to let the marketplace work and we are going to take one source of



stress off the hourly employee in this country who wants to spend time at home with their children, time catching up on errands, or just time relaxing with loved ones and friends.

That is what the Family Friendly Workplace Act does. That is why I am happy to be a cosponsor with Senator ASHCROFT, and give the 28 million women and 60 million working Americans in this country the same scheduling freedom that other employees in this country have had for years. Those Americans who work so hard day in and day out at their jobs, then have that extra burden of having to work when they come home. Most do not come home from work and sit in a chair and rest. They come home from work and they fix dinner for the kids, they fix lunch for school tomorrow, and then they do homework with the kids or whatever it is that has to be done. Their day is not over at 5 o'clock. From time to time, they need to be able to take entire days or even weeks off from work. The Family Friendly Workplace Act will allow them to save up the hours to do that. Mr. President, we cannot give America's hardworking families any more than 24 hours in the day, but we can do the next best thing by enacting this important legislation.

I thank Senator DEWINE for yielding the floor. I hope we will be able to talk about this for a long time to come because if the Democrats are indeed going to filibuster and keep the Senate from responding to the needs of America's workers who overwhelming support this bill, then I am ready to talk for a long time. This bill means a lot to me and it will mean a lot to the families of our country. If we have to stand on our feet and talk for 2 weeks, count me in.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, let me congratulate my colleague from Texas for not only an excellent statement but for the tremendous work she has done, not just on this bill, but on many pieces of legislation that really reflect how American families live today.

Government, many times, has a hard time keeping up with changes in society. She has worked, for example, on the homemaker IRA bill, another bill that, again, tracks the changes in society and gives families flexibility to allow them to make adjustments in their life, to live their lives the way they want to live them. I congratulate her for her great work and look forward to working on this bill and continuing this debate in the future.

Mr. President, I think one of the points that my colleague from Texas made very well is that this bill—the current law discriminates against hourly workers. We have a situation today where two people can be working together, one is a salaried employee, the other is an hourly employee, and the hourly employee, really because of the way the law is written, because of a quirk of history, legislative history,

the hourly employee does not have the same flexibility today that a salaried employee does. The salaried employee can make an arrangement with the employer to shift time, to be gone a Friday afternoon, to work extra some other time, that flexibility is not available to the hourly employee. That is discrimination. That is wrong. That is what this bill is aimed at rectifying.

Mr. President, it is also discrimination to say if you work for the Federal Government or if you work for local government, you have to follow one set of rules and you have many options as far as the time you work. But if you work in the private sector, the Federal Government says, "Oh, no, you do not have that flexibility." That is discrimination. Again, that is what this bill is designed to rectify, change, and stop that discrimination.

S. 4, the Family Friendly Workplace Act, Mr. President, will finally provide the flexibility that today's work force so desperately needs. The act will allow employers and employees to mutually agree, voluntarily, on whether an employee will receive overtime compensation in the form of the traditional time and a half—money; or, that same time and a half as compensatory time off. That choice this bill gives to that employer and that employee.

Employers and employees will be able to mutually agree to biweekly work schedules instead of the traditional workweek. Employers and employees will be able to mutually agree on the use of flexible credit hours. These choices will alleviate the pressures working women, single parents, constantly face today, Mr. President, in their attempt to balance the responsibilities at work with their obligations to their children, their obligations to their family.

The cornerstone to each of these options is this foundation of choice. It is voluntary. It is giving the employee one more tool. Mr. President, I and my colleagues are not alone in recognizing that our work force, our workplaces have changed.

We are not alone in understanding that the Fair Labor Standards Act passed many, many years ago no longer in this respect totally meets workers' needs. We are not alone in understanding that it is time for change.

A 1994 study by the Department of Labor stated that the primary concern of two-thirds of working women with children was the difficulty in balancing work and family. No surprise. A poll taken by Money magazine, just published in this May's issue, states, "Sixty-four percent of the public and 68 percent of women said that if they had a choice between taking cash or time off for working overtime they would definitely choose the time." Let me repeat that. Two-thirds said if they had a choice they would choose the time. It is a question of choice.

The point is, Mr. President, that current law does not give the average American worker—the person who is

working in the private sector, the person who is working paid by the hour—does not give them per law that choice, and, in fact, prohibits employers and employees from making that choice; that determination. In that same poll, Mr. President, 82 percent said they would support the Family Friendly Workplace Act.

An article in the Cincinnati Enquirer read, "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 find it easier to recruit and retain productive workers."

An article in the Akron Beacon Journal quoted Ann Morris as saying very simply and for obvious reasons, "In the long run, my time is more important than the extra dollars."

Mr. President, furthermore, the President of our country, President Clinton, has stated on more than one occasion that he understands the need for more flexibility in the workplace and that he favors opportunities for workers, such as compensatory time in lieu of traditional overtime pay, flexible credit hours, and biweekly work schedules. This is what he said at the Democratic National Convention. I quote President Clinton. "We should pass a flextime law that allows employees to take overtime pay and money, or time off, depending on what is better for their family."

In describing his own initiative, this is what President Clinton said:

This legislative proposal is vital to American workers—offering them a meaningful and flexible opportunity to balance successfully their work and family responsibilities. The legislation will offer workers more choice and flexibility in finding ways to earn the wages they need to support their families while also spending valuable time with their families.

Mr. President, these options have been on trial in the public sector. It is not as if we do not have a wealth of experience in this area. We do have years and years of experience, and thousands and thousands of employees who have benefited from this.

It is always instructive, I think, before Congress to act to look to see what experience we have. I think this has shown, Mr. President, that this is clearly what we need to do because the experience has been in fact good.

This is what President Clinton has to say about this. Let me quote:

Broad use of flexible work arrangements to enable Federal employees to better balance their work and family responsibilities can increase employee effectiveness and job satisfaction while decreasing turnover rates and absenteeism.

That is the view our President expressed on July 11, 1994. The President recognized that people sometimes have to struggle very hard to balance the demands of work and families.

A couple of years after he made that earlier statement, the President went even further calling on all Federal agencies to develop a plan of action for better implementation of these flexible work schedules. Again I quote:

I am directing all executive departments and agencies to review their personnel practices and develop a plan of action to utilize the flexible policies already in place . . . flexible hours that will enable employees to schedule their work and meet the needs of their families.

That is from a Presidential memorandum dated June 21, 1996.

Finally, in his State of the Union Address, this is what the President said. "We should pass flextime so workers can choose to be paid overtime and income, or trade it in for time off to be with their families."

This is a quote the Democratic Leadership Council:

Public policy should support two-parent families by giving them as much flexibility as possible to balance family and income needs. The tools and protection workers need in the information age are different from those required in the industrial era. The Fair Labor Standards Act needs to be modernized. Even with squeezed family budgets, for some workers time off may be as valuable as extra money.

Mr. President, this type of bipartisan support I think provides us with a remarkable opportunity. A Democratic President and Republican and Democratic leaders in Congress are united on an important national issue facing the American workplace. We may never have a better opportunity to pass this legislation.

For the sake of those Americans who are faced daily with the difficult challenge of deciding between their livelihood, their family, their employers, and the American work force as a whole, I urge swift passage of this bill.

I would like, Mr. President, to take just a moment—I am sorry my colleague from Minnesota is not here. He indicated that he was looking forward to continuing this debate. I know he will in the weeks ahead. He had to leave to attend a budget hearing. But I would like to briefly address several comments that he made when he talked about this bill. I rather jokingly, as he was leaving the floor, said to him that the bill he had described was not the bill that I thought we passed out of the committee. Let me explain to my colleagues.

He cited four problems that he saw with this bill. The first was he said it was a pay cut. He said that overtime should be sacred. Mr. President, he is absolutely right. Overtime should be sacred. Overtime is sacred in this bill.

What we are simply saying is that if an employee, because of his or her family situation, or for whatever reason, decides that they would rather take time and a half in time at some other date instead of money, they have the option to do that providing both the employee and employer want to do that. That is all it says. That is flexibility. That is allowing workers who work by the hour to get paid by the hour, to have the same rights Federal workers have, that State workers have, and the same rights that salaried employees have today.

So it preserves the concept of overtime, and time and a half. In fact, with

that time and a half it gives it more flexibility. It gives certainly more potential value for the employee because it allows the employee to decide how to take that.

My colleague from Minnesota, Senator WELLSTONE, also said it cuts benefits. It is simply not true. We will have the opportunity to talk about this at length. There has been no evidence brought forward that shows this at all. The facts simply aren't there.

He also said that it abolishes the 40-hour work week. That is not true. It just isn't true. I ask what is wrong with an employee having the option to design his or her biweekly time with the consent of the employer, if they both want to do it? What is wrong with them designing the work week that says the employee will have every second Friday off? Maybe he or she wants to spend time with their family. Maybe they want to volunteer. Maybe they want to go fishing. Maybe they want to go hunting. It is not Government's business.

The current law prohibits employees and employers who do not work for the Federal Government and who work by the hour from being able to make that kind of an arrangement. Is that an attack on the 40-hour workweek? I don't think so. And I don't think the American worker thinks so either.

My colleague talked about enforcement. We listened to the testimony. We listened to the complaints that were made and the criticisms of the bill. And some of them, quite frankly, were justified. No bill is perfect, as it is introduced. We took those criticisms, and altered the bill to try to deal with the constructive criticism from the other side of the aisle.

This is a better bill as it comes to the floor, quite frankly, than it was when we started.

My colleague suggested that they certainly get credit for that. But the enforcement is there. The enforcement is there. It relies on the current enforcement of the Fair Labor Standards Act—enforcement that has been in place. The mechanism is there. And it provides very, very specific and tough penalties if, in fact, an employer in any way tries to coerce an employee, if they in any way try to abuse the privileges that are given employees and employers in this bill.

So I look forward, Mr. President, to having the opportunity to discuss this bill in the future.

I yield to my colleague from New York.

#### DISPOSITION OF LOOTED ARTWORK

Mr. D'AMATO. Mr. President, when the Banking Committee began the inquiry into Swiss banks, we had no idea where the trail would lead. We know that the Nazis had looted personal belongings of millions from all over Europe—gold, personal matters, bank accounts. But we really did not know how

much help—I say "help"—that the Nazis had in disposing of this loot. We are beginning to get some idea. Now we have a better idea.

We know that Swiss banks facilitated the looting of gold from all over Europe. We know that the accounts of great numbers of Holocaust victims were never returned by Swiss banks to their heirs. But we also know that our Nation had similar problems. Other nations had similar problems and participated. France was one of them.

I am shocked to see a December 1995 report which I am holding here from the French Ministry of Justice.

Mr. President, this report details an audit of some of France's most prestigious museums and explains how these museums for over 50 years managed to hide their ownership of almost 2,000 works of art—1,955 works of art, to be precise, art that was looted from the victims of the Holocaust and deposited with these museums during the war, some of them sold on the so-called black market by the Nazis, who stripped Europe, who stripped individuals as they came through with their killing machine and sold the art or deposited it with these museums that knew they were not the true owners who were selling it to them.

Curator after curator cared more about the so-called, to use their words, sanctity of their collections, the museum's collections than for justice of the family from which art work was stolen. This is unconscionable for the museum to be saying, and I quote the museum in Versailles, the curator said, "Each and every one of these works has its proper place in our collections." Do not disturb them. It does not matter that they were stolen. It does not matter that it was their property.

The report also quotes a curator from the Musée d'Orsay as having said that a painting held in his collection by Gustave Courbet, the great painting of the Cliffs at Etretat After a Storm—and here is a photograph of that painting; it is one of the great masterpieces of the world—is one of the masterpieces that we would have to buy at a great price if we did not already have it.

Well, they may have it, but who does it rightfully belong to? Are we saying that the great art museums of the world, and particularly in France, have a right to keep this stolen art work?

Mr. President, this painting sits today in the Musée d'Orsay and the simple matter is that it does not belong to that museum. This painting, along with thousands of others and with other art objects in the French museums, should be immediately turned over to an independent authority to quickly establish its rightful ownership. The French Government has established a commission to study the problem but the true owners should not have to put up with the delays that go along with commissions like this. It has been 50 years, as the report states. The French museums have made little